

ESTTA Tracking number: **ESTTA581208**

Filing date: **01/10/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92056629
Party	Defendant Octagon Worldwide Holdings B.V.
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Date	01/10/2014
Attachments	92056629 Registrants Mot to Compel.pdf(39734 bytes ) 92056629 Dec of T Carmichael.pdf(11190 bytes ) 92056629 Exhibit A.pdf(85097 bytes ) 92056629 Exhibit B.pdf(73727 bytes ) 92056629 Exhibit C.pdf(746685 bytes ) 92056629 Exhibit D.pdf(19231 bytes ) 92056629 Exhibit E.pdf(34700 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

OCTAGON LAW GROUP, INC.,

Petitioner,

v.

OCTAGON WORLDWIDE HOLDINGS,  
B.V.,

Registrant.

Cancellation No. 92056629

Mark: OCTAGON

Registration No. 2,470,833

Registration Date: July 24, 2001

**REGISTRANT’S MOTION TO COMPEL PETITIONER TO RESPOND TO  
QUESTIONS AT DISCOVERY DEPOSITION AND FOR SANCTIONS**

In accordance with Rule 37 of the Federal Rules of Civil Procedure and Rule 2.120(e) of the Trademark Rules of Practice, Registrant Octagon Worldwide Holdings, B.V. (“Registrant”), hereby moves for an Order directing Petitioner, Octagon Law Group, Inc. (“Petitioner” or “OLG”)), to (i) produce a designated corporate representative to answer open lines of questioning on topics which Petitioner’s counsel improperly instructed the proffered representative witness not to answer and/or which the representative witness refused to answer, (ii) refrain from further instructing Petitioner’s designated witnesses not to answer questions on the grounds of confidentiality or other improper objections; and (iii) that the costs of the deposition be borne by Petitioner.

At the November 7, 2013 30(b)(6) deposition of Petitioner, Petitioner's then-designated representative (Javad Heydary) improperly refused to answer series after series of material and relevant lines of questions, in violation of both the TTAB rules and the Federal Rules of Civil Procedure, and without a valid basis for objection. Respondent reserved its right to re-open the deposition with respect to the subject matter of such information requests/deposition questions, and now seeks to compel Petitioner to comply with its discovery obligations in this proceeding it commenced, and to face sanctions for its failure to do so.<sup>1</sup> In support of its motion, Registrant states as follows.

### **Factual Background**

#### *The Deposition Petitioner's 30(b)(6) Representative*

On October 1, 2013, Registrant timely served Petitioner with its Notice of Deposition of Petitioner Octagon Law Group F.R.C.P. 30(B)(6) ("Notice of Deposition"). Declaration of Tamara Carmichael, dated November 13, 2013 ("Carmichael Decl."), Ex. A.

The Notice of Deposition required the designation of one or more of Petitioner's officers, directors, or managing agents, or other person(s) to testify on its behalf, pursuant to Federal Rule of Civil Procedure 30(b)(6) and Rule 2.120 of the Trademark Rules of Practice (37 CFR §2.120), regarding the topics set forth in the Notice of Deposition. *See* Carmichael Decl., Ex. A.

Petitioner objected to the Notice of Deposition, claiming that because Petitioner was located in Canada, the deposition could be by written question only. After Registrant's motion to compel the deposition and Petitioner's motion to quash were briefed, a telephone conference was held with the Interlocutory Attorney Jennifer Crisp on October 31, 2013. *See* Carmichael

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<sup>1</sup> Based on publicly available information, it is unclear whether Petitioner's corporate representative who appeared at the November 7, 2013 deposition, Mr. Javad Heydary, is deceased as of the date of filing this motion. Even if the reports are accurate that Mr. Heydary is or might be dead, Petitioner, a corporate entity, is nonetheless required to produce a corporate representative to comply with its discovery obligations. If it is unable or unwilling to produce a new designee with sufficient knowledge and authority to bind the company, Petitioner should withdraw this Petition.

Decl. Ex. B (November 1, 2013 Order). During that conference and in the subsequently issued Order, the Interlocutory Attorney found good cause for the deposition to be taken orally and compelled Petitioner to appear for the deposition. *Id.* The Order also noted that “Counsel for petitioner has the option to attend the deposition by teleconference.” *Id.* Notably, during the conference, counsel for Petitioner confirmed that Petitioner did not contest the topics set forth in the Notice of Deposition. *Id.* at fn 2.

On November 7, 2013, Petitioner produced an officer of the company, Javad Heydary as its corporate representative (“Heydary”). The deposition was held, as noticed, in Toronto, Canada. Petitioner’s counsel of record in this proceeding, Maria V. Hardison of Tassan & Hardison, did not attend the deposition, either in person or telephonically. Rather, attending with Petitioner’s representative was Canadian attorney Robert Kalanda, Esq., of the Heydary Hayes law firm in Toronto.

*The Witness Improperly Refused To Answer Questions and Counsel Improperly Instructed The Witness Not To Answer Questions*

During the deposition, Heydary, who is (or was) also a practicing attorney in Canada and a member of the New York bar in the United States, repeatedly and improperly refused to answer questions. *See, e.g.*, Carmichael Decl. Ex. C (Excerpts of Nov. 7, 2013 Deposition Transcript (“Tr.”)).

Petitioner’s representative refused to answer basic questions regarding OLG’s business, the services offered under its OCTAGON marks, and use or potential use of OLG’s marks in the United States. The representative even refused to answer questions regarding information that was publicly available on OLG’s own website, which demonstrates both the breadth of his refusals and lack of merit to any claim of “confidentiality”. For example, the representative refused to answer the lines of questioning below:

Q: Are each of those five Heydary law firms clients of Octagon Law Group, Inc.?

A: They are.

Q: Do any or each of the Heydary law firms have contracts with Octagon Law Group, Inc.?

Mr. Kalanda: **We are going to object to that. It is confidential business information and we won't be providing an answer.**

....

A: **You can note that I am refusing to answer that question on that basis. That is confidential business information.**” Tr. at p. 19.

Q: Apart from the five Heydary law firms, does Octagon Law Group have any other clients?

A: Yes.

Q: How Many?

A: **Confidential information. I refuse to answer the question.** Tr. at p. 21.

Q: What are the names of other clients of Octagon Law Group?

A: **That is confidential information.** Tr. at p. 22.

Q: Does Octagon Law Group have a contract with Red Seal Notary Inc.?

Mr. Kalanda: **I think we are going to object to that for the same reasons** as the previous contractual questions. Tr. at 14-25.

Q: What HR services does Octagon Law Group, Inc. provide for Red Sea Notary?

A: **That would be confidential, the details,** beyond general HR Services.

Q: Is your answer going to be the same for administrative, IT, and marketing services?

A: It would be. As to the details, yes. I can confirm they provide those services, as to the details, not to mention it would also be irrelevant, **but I am relying on the confidentiality of the information for my refusal.** Tr. at p. 25-26.

Q: Are you refusing to answer any questions about the services provided by Octagon Law Group Inc. with respect to Red Seal Notary?

A: **If it refers – any client of Octagon, information regarding their operations would be confidential on a number of levels...**” Tr. at 26.

Q: Are there any other services that Octagon Law Group provides to Heydary Elliott?

A: General business consulting relating to law firm financing, M&A, and general management advice.

Q: What does that mean, management advice?

A: **Confidential information.**

Q: I will make it easy for everybody. Would your answer to those questions be the same for Heydary Hamilton PC?

A: Yes.

Q. Would your answers be the same for Heydary Samuel PC?

A. Yes.

Q. Would your answers be the same for Heydary Green PC?

A. Yes.

Q. Would your answers be the same for Heydary Hayes PC?

A. Yes.

Q. Are you refusing to answer questions with respect to other than marketing, other than HR, administrative, IT, marketing, and general business services being provided that you are refusing to give any details of what those services are?

A. [The] **Details I am refusing, yes, because it would be a breach of confidentiality**, and that breach of confidentiality can be broken into two parts. One is our obligations in Octagon towards those entities as clients. Second, the trade secret and confidential nature of some of the operations relating to Octagon itself. Tr. at 27-28.

Q. It is your position that the way Octagon Law Group Inc. operates its business includes trade secret and confidential business processes? Is that a fair statement?

A. It has aspects of that. It is a unique company. To the best of our knowledge, it is one of the first if not the first company to be dedicated to those services, so a lot of processes it has, they were, for lack of a better word, invented by the company. The whole industry is a new one. We are sure the company is the first of its kind in Canada and the U.S., based on our research. Being a unique company, the first in its field, a lot of the processes it has relating to its operations would be covered by trade secret.

Q. What are some of those processes?

MR. KALANDA: **I think we are going to object to that.**

MS. CARMICHAEL:

Q. I have to have it on the record that he is refusing.

A. Yes. Tr. at 29.

Q. Does Octagon Law Group Inc. perform services for Lawsof.com? Your lawyer can't answer the question.

A. I am not sure I have the information you are asking me. Even if I did, **it would be confidential if they are a client.** Tr. at 31.

Q. Do any of Octagon Law Group Inc.'s clients render services in the United States?

A. **Confidential information. I couldn't answer that.** Tr. at 36.

Q. Who are the key employees?

A. **I cannot disclose that**, apart from the ones who are public employees, such as myself and Ms. Chai.

Q. Is it helpful if I remind you that some of those key employees are listed on Octagon Law Group Inc.'s web site?

A. If they are, they are. I don't know what our contractual obligations are to those employees, what I can disclose, what I cannot, not to mention the relevance, but we leave that aside.

Q. I am entitled to ask you about who the employees of the company are and what their roles are and what they do.

A. **I am refusing to answer that.** You can mark my refusal. We will move on. You can rely on the web site and assume those people are employees of Octagon.

Q. You are going to refuse to answer any questions about who key employees or employees generally are and what they do for the company?

A. **I refuse to answer any question that will force me to disclose confidential information about Octagon and its operation.**

Q. Do you consider what key employees do and what their role is at Octagon Law Group Inc. to be confidential information?

A. If it is beyond what is posted on the web site or is made public, yes. Not the information that is posted on the web site or made public. **Anything beyond that would be confidential.** Tr. at 39-40.

Q. Does Octagon Law Group Inc. have strategic alliances with third-party persons or entities?

A. **I cannot disclose that information. It is confidential.**

Q. You won't answer whether it is yes or no?

A. **No, I cannot answer.** Tr. at 44.

Q. Are you refusing to answer questions with respect to the identity of any strategic partners Octagon Law Group Inc. has?

A. I am.... Tr. at 45.

Q. What are some examples of that [OLG's primary client base]?

A. Law firms, notary companies, paralegal companies, and so forth.

Q. What else? Law firms, paralegal companies, notary companies?

A. **I would be disclosing confidential information.** I can give you hypothetical potential clients. I would say it captures any company that provides legal services. If that is not clear, you can ask me a specific question, and I am happy to answer it. Tr. at 48.

Q. [The OLG website] It says Octagon Law Group Inc. was founded by a group of experienced legal, accounting, marketing, IT professionals and business executives. Who are those founders?

A. Other than the ones that are on the public record and we discussed, **the rest would be covered by confidentiality. Again, consider that a refusal.** Tr. at 120.

Q. In the third paragraph in this section [of the OLG website], it says that Octagon's team is made up of highly specialized and skilled professionals in financing, marketing, accounting, information technology, human resources, and business management. Who comprises the team?

A. Same answer. You have a list of the ones made public on the right. **The rest would be considered confidential.**

Q. Does Octagon Law Group Inc. charge some or all of its clients for its services?

A. Confidential. You can consider that a refusal. Tr. at 121.

Q. Does Octagon Law Group Inc. have any clients that are entities in which you have no business, economic or equitable interest? You can read it back, because I know I said it correctly.

MR. KALANDA: I think that goes into -- I have the question. **I think that goes into, again, confidential business information.** Tr. at 126.

Heydary also refused to answer questions concerning OLG's use of its marks and potential use in the United States as well as the selection of its OCTAGON marks and current use of the marks. For example:

Q. Do you plan to have offices in the United States?

A. **I cannot answer that.**

Q. Do you plan to advertise in the United States?

A. **I cannot answer that.**

Q. Meaning you are refusing to answer?

A. **Yes. Anything to do with details of what we plan to do in the U.S., I would consider those confidential.** I am happy to answer general questions as to what target market we will go after, but not any specific operational. Tr. at 64.

Q. Who participated? Who was interested in that? [the selection and design of OLG's OCTAGON Marks]

A. I was, along with a few other people at Octagon. Apart from having two or three internal people, we had outside people assisting, too.

Q. Who from the outside assisted?

A. **I cannot disclose that. That is confidential information.** Tr. at 67-68.

Q. Does Octagon Law Group Inc. license any of the Octagon marks to its clients in Canada?

A. **That is confidential information. You can take that as a refusal to answer based on confidentiality.**

Q. Does Octagon Law Group have any license agreements in place with any clients in Canada with respect to the use of any of the Octagon marks?

A. **The same refusal, on confidentiality basis.** Tr. at 88.

In response (and on numerous occasions), Registrant's counsel explained that confidentiality was not a basis on which to refuse to answer the question, nevertheless, the witness refused to answer. He further stated: "I am refusing to answer the question based on the fact that the question is confidential, notwithstanding the fact that it is irrelevant, but it is strictly



confidential.” *Id.* p. 20. Throughout the deposition, Petitioner’s corporate representative continued to refuse to answer questions, both of his own decision and in some cases after the objection of his counsel, on the purported basis of “confidential business information.” *See* Ex. C.

*Registrant’s Good Faith Efforts To Resolve The Discovery Dispute Were Unsuccessful*

During the early part of the deposition, after the witness refused to answer questions and it became clear that both the witness and his Canadian counsel would continuously make improper objections to Registrant’s relevant and permissible questions, counsel for Registrant attempted to resolve any pending and/or future dispute and informed both that the refusals and objections were patently improper under applicable law. Counsel for Registrant then afforded the representative and Petitioner’s Canadian counsel an opportunity to consult with his U.S. counsel regarding the proper scope of objections, even though she was not in attendance. *See* Tr. at p 17-18. Counsel for Registrant advised Heydary and his counsel that if he refused to answer questions, “We will take it up with the TTAB and come back if we need to. But we will give you five minutes as a courtesy to go talk with your U.S. lawyer about the scope of questions.” Tr. at p. 17-18.

Although it is unknown to Registrant whether or not Heydary consulted with Petitioner’s U.S. counsel, after the break he continued to refuse to answer questions about Petitioner Octagon Law Group’s business. *See* Tr. pages 19 *et. seq.* Counsel for Registrant again informed Heydary and counsel that if “we are getting refusals to answer questions that are perfectly appropriate for this deposition, we are going to terminate the deposition and file a motion to compel and for sanctions, and if we have to come back here, we are going to look for you guys to pay that, pay

for those fees and costs.” Tr. at 22. Heydary and Canadian counsel both acknowledged that risk. *Id.* (Mr. Kalanda: “Noted.” The Witness: “Noted. Thank you.”).

Although Registrant’s counsel repeatedly advised that “relevance is not a basis to not answer the questions” (Tr. at 16) and that confidentiality is also not a basis, but rather “Confidentiality is protected by other mechanisms” (Tr. at p. 20), the witness continued to refuse to answer questions on the basis that the information sought was confidential, and Petitioner’s counsel continued to assert the baseless objections. Accordingly, and in particular given the travel and costs associated with taking the deposition, Registrant reserved all rights on all questions Registrant refused to answer and indicated that Registrant would move to compel and reopen the deposition. See Tr. at p. 88.

Following the deposition, and in further attempt to advance discovery and resolve the outstanding issues from the deposition, Registrant’s counsel emailed Petitioner’s U.S. counsel of record concerning the improper refusals to answer and requested that Heydary voluntarily reappear to conclude the deposition, either in New York or Toronto, with full costs and fees to be borne by Petitioner. See Carmichael Decl. Ex. D (November 18, 2013 email to M. Hardison). Registrant’s counsel noted that if a continuation of the deposition was not confirmed by or before November 20, 2013, Registrant would be seeking to compel the deposition and for sanctions. *Id.*

Registrant’s counsel responded that she was unable to confirm whether or not Petitioner’s corporate representative would sit for an additional deposition. See Carmichael Decl. Ex. E (Nov. 20, 2013 email from M. Hardison to T. Carmichael (redacted)).

## **ARGUMENT**

### **I. PETITIONER SHOULD BE COMPELLED TO PRODUCE A CORPORATE REPRESENTATIVE TO ANSWER QUESTIONS ITS 30(B)(6) WITNESS IMPROPERLY REFUSED TO ANSWER**

At the deposition, Registrant's counsel pursued lines of questioning that were relevant, proper, and well within the bounds of permissible discovery under the Federal and TTAB rules. Registrant's questions were entirely within the scope of the un-contested topics set forth in the Notice of Deposition and did not seek disclosure of privileged information. Nevertheless, Heydary repeatedly refused to answer questions on the basis that the information sought was confidential and/or irrelevant, rendering entire subject matters and further questions futile. On occasion, Petitioner's Canadian counsel asserted the same objections, and did not instruct the witness to answer the questions. Registrant's objections and refusals to answer were improper and deprived Registrant of its right to take appropriate and relevant discovery.

The Federal Rules of Civil Procedure only permit counsel to instruct a witness not to answer a question "when necessary to preserve a privilege, enforce a limitation ordered by the court, or to present a motion under Rule 30(d)(3)." FED. R. CIV. P. 30(b)(2). The Trademark Trial and Appeal Board Manual of Procedure ("TBMP") further states that objections should be limited to those that might be waived pursuant to Rule 32(d)(3) if not raised during the deposition, none of which include an objection that the question is irrelevant or seeks confidential information. TBMP § 404.08(c). In fact, Rule 32(d)(3) specifically categorizes objections to relevance and materiality such as those raised repeatedly and inappropriately by Applicant's counsel as not being waived, and therefore not appropriate during deposition, and most certainly not grounds on which to instruct a witness not to answer a question. *See, e.g., ZCT Sys. Group, Inc. v. FlightSafety Int'l*, 2010 WL 1257824 at \*2 (N.D. Okla. Mar. 26, 2010)

(“The instruction not to answer ... was improper because FSI was not seeking to preserve a privilege, enforce a limitation ordered by the court or in order to present a motion under Rule 30(d)(3).”). Rule 404.08(c) further provides that “Questions objected to ordinarily should be answered subject to the objection” and that a witness may only properly refuse to answer a question seeking information which is privileged or not otherwise subject to disclosure under the terms of either the Board’s standard protective order (or other agreed to and approved protective order). TBMP § 404.08(c). The proper procedure, under the TBMP is for the witness to answer the question as posed, and the objection to be considered by the Board at final hearing. *Id.*

The proper remedy for Petitioner’s failure to answer Registrant’s questions is an order to compel the witness’ attendance at an additional deposition. TBMP § 411.04 (“if a party . . . fails to answer any question propounded in a discovery deposition, the party seeking discovery may file a motion with the Board for an order to compel a designation, or attendance at a deposition, or an answer”); 37 C.F.R. § 2.120(e)(1) (“If a party fails ... to answer any question propounded in a discovery deposition ... the party entitled to disclosure or seeking discovery may file a motion to compel disclosure, a designation, or attendance at a deposition, or an answer”); *Neville Chem. Co. v. Lubrizol Corp.*, 183 U.S.P.Q. 184 (TTAB 1974) (“In the event that opposer not only objects to, but also refuses to answer, certain questions during the course of the deposition, applicant may compel an answer”) (citing 37 C.F.R. § 2.120(c), now (e)).

## **II. PETITIONER SHOULD BEAR THE COSTS OF THE CONTINUED DEPOSITION**

The Board has already issued one order compelling Petitioner to appear for the deposition. *See* Carmichael Decl. Ex. B. Petitioner’s blatant failure to comply with that order and with the TMBP and Federal Rules of Civil Procedure has necessitated yet another motion to compel in order to force Petitioner to comply with its discovery obligations in the proceeding it

initiated. Registrant should not be forced to bear the burden of Petitioners repeated refusals to comply with its discovery obligations. Accordingly, Registrant respectfully submits that Petitioner should bear the costs and fees for the continued deposition, and requests that the deposition be held in New York, by no later than February 10, 2014.

### **RELIEF SOUGHT**

For the foregoing reasons, Registrant respectfully requests that the Board issue an Order directing Petitioner to:

- (1) produce a corporate representative to answer the questions and lines of questioning which its previous representative refused to answer, along with any follow-up questions on those areas of inquiry, by no later than February 10, 2014;
- (2) refrain from refusing to answer (or counsel instructing the witness not to answer) questions on the basis of confidentiality or relevance or any other improper basis; and
- (3) pay all costs and fees for the continued deposition.

Respectfully submitted,

Dated: New York, New York  
January 10, 2014

LOEB & LOEB LLP  
By: /s/ Tamara Carmichael  
Tamara Carmichael  
Jodi Sarowitz  
345 Park Avenue, 18<sup>th</sup> Floor  
New York, New York 10154  
(212) 407-4000  
*Attorneys for Registrant*

**CERTIFICATE OF SERVICE**

I, Angela Ocasio Provencio, hereby certify that a copy of this REGISTRANT'S  
MOTION TO COMPEL PETITIONER TO RESPOND TO QUESTIONS AT DISCOVERY  
DEPOSITION AND FOR SANCTIONS has been served upon:

MARIA V HARDISON  
TASSAN & HARDISON  
4143 27TH STREET N  
ARLINGTON, VA 22207-5211

via first-class mail, postage pre-paid, on January 10, 2014.

/s/ Angela Ocasio Provencio

NY1246740.1  
202999-11329

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

OCTAGON LAW GROUP, INC.,

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v.

OCTAGON WORLDWIDE HOLDINGS,  
B.V.,

Registrant.

Cancellation No. 92056629

Mark: OCTAGON

Registration No. 2,470,833

Registration Date: July 24, 2001

**DECLARATION OF TAMARA CARMICHAEL IN SUPPORT OF REGISTRANT'S  
MOTION TO COMPEL PETITIONER TO RESPOND TO QUESTIONS AT  
DISCOVERY DEPOSITION AND FOR SANCTIONS**

1. I am a partner at Loeb & Loeb LLP, counsel for Registrant Octagon Worldwide Holdings, B.V. ("Registrant"). I submit this declaration in support of Registrant's Motion to Compel Petitioner Octagon Law Group, Inc. ("Petitioner") to respond to questions at discovery deposition and for sanctions. I have personal knowledge of the facts set forth herein and can testify competently hereto.

2. On October 1, 2013, Registrant timely served Petitioner with its Notice of Deposition of Petitioner Octagon Law Group F.R.C.P. 30(B)(6) (“Notice of Deposition”). A true and correct copy of the Notice of Deposition is attached as Exhibit A.

3. Petitioner objected to the Notice of Deposition, claiming that because Petitioner was located in Canada, the deposition could be by written question only. After Registrant’s motion to compel the deposition and Petitioner’s motion to quash were briefed, a telephone conference was held with the Interlocutory Attorney Jennifer Crisp on October 31, 2013. A true and correct copy of the resulting November 1, 2013 Order granting Registrant’s motion to take the deposition is attached as Exhibit B.

4. On November 7, 2013, Petitioner produced an officer of the company, Javad Heydary as its corporate representative (“Heydary”). The deposition was held, as noticed, in Toronto, Canada. Petitioner’s counsel of record in this proceeding, Maria V. Hardison of Tassan & Hardison, did not attend the deposition, either in person or telephonically. Rather, attending with Petitioner’s representative was Canadian attorney Robert Kalanda, Esq., of the Heydary Hayes law firm in Toronto.

5. During the deposition, Heydary repeatedly and improperly refused to answer questions and counsel repeatedly instructed the witness not to answer questions. True and correct copies of excerpts of the November 7, 2013 Deposition Transcript are attached as Exhibit C.

6. During the deposition, I made a good faith effort to resolve the issues presented in this motion. Among other things, I afforded the representative and Petitioner’s Canadian counsel an opportunity to consult with Petitioner’s U.S. counsel regarding the proper scope of objections, even though she was not in attendance. I also advised Heydary and counsel that if he refused to



answer questions, “We will take it up with the TTAB and come back if we need to” and would file a motion to compel and for sanctions *See* Ex. C. at p 17-18, 22, 88.

7. Following the deposition, and in a further good faith attempt to resolve the outstanding issues from the deposition, I emailed Petitioner’s U.S. counsel of record concerning the improper refusals to answer and requested that Heydary voluntarily re-appear to conclude the deposition, either in New York or Toronto, with full costs and fees to be borne by Petitioner. A true and correct copy of the November 18, 2013 email to M. Hardison is attached as Exhibit D.

8. Registrant’s counsel responded that she was unable to confirm whether or not Petitioner’s corporate representative would sit for an additional deposition. A true and correct copy of the November 20, 2013 email from M. Hardison to T. Carmichael (redacted) is attached as Exhibit E.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in New York, New York, on January 10, 2014.

/s/ Tamara Carmichael  
Tamara Carmichael

# Exhibit A

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

OCTAGON LAW GROUP, INC.,	)	
	)	
Petitioner,	)	
	)	Cancellation No. 92-056629
v.	)	
	)	
OCTAGON WORLDWIDE HOLDINGS,	)	
B.V.,	)	
	)	
Registrant.	)	
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Mark:	)	OCTAGON
	)	
Reg. No.	)	2,470,833
	)	
Reg. Date:	)	July 24, 2001
	)	
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**NOTICE OF DEPOSITION OF  
PETITIONER OCTAGON LAW GROUP F.R.C.P. 30(B)(6)**

**TO PETITIONER AND ITS ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that, pursuant to Federal Rule of Civil Procedure 45 and 30(b)(6) and Rule 2.120 of the Trademark Rules of Practice (37 CFR §2.120), Octagon Worldwide Holdings, B.V. ("Registrant") will take the deposition upon oral examination of petitioner Octagon Law Group ("Petitioner") at ASAP Reporting Services, Inc., Bay Adelaide Centre, 900-333 Bay Street, Toronto, ON Canada M5H 2T4, on Thursday, November 7, 2013 at 9:30 a.m. before a certified shorthand reporter.

The deposition will be both recorded stenographically and may be recorded by audiotape and/or videotape; and the deposition may also be transcribed through the instant visual display of testimony pursuant to Federal Rules of Civil Procedure, Rule 30. The deposition will commence on the date set forth above and will continue until complete as permitted by law.

**PLEASE TAKE FURTHER NOTICE** that, pursuant to Federal Rule of Civil Procedure 30(b)(6) and Rule 2.120 of the Trademark Rules of Practice (37 CFR §2.120), Petitioner is required to designate one or more of its officers, directors, or managing agents, or other persons who consent to testify on its behalf, to testify on the following matters:

1. The corporate structure of Petitioner, including the names of all officers, directors and employees of Petitioner.

2. The creation, selection, and adoption of and/or intention to use the OCTAGON, OCTAGON LAW GROUP, OCTAGON LAW FIRMS, OCTAGON ACCOUNTING, OCTAGON TAX, ORGANIZED BY OCTAGON, OCTAGON LAW, and/or MANAGED BY OCTAGON marks (collectively, "Petitioner's OCTAGON Marks") and/or any variation thereof.

3. The prosecution of any trademark applications incorporating Petitioner's OCTAGON Marks and/or any variation thereof, pending or abandoned, prepared for, owned by, assigned to, or licensed to Petitioner.

4. Any investigation conducted by or on behalf of Petitioner, such as a service mark, trademark, trade name, or corporate name search, concerning the availability for use or registration of Petitioner's OCTAGON Marks and/or any variation thereof.

6. The earliest use anywhere, and the earliest use in commerce by, on behalf of, or for the benefit of Petitioner of Petitioner's OCTAGON marks and/or any variation thereof, on or in connection with any product or service.

7. Any use or proposed use of Petitioner's OCTAGON marks and/or any variation thereof on or in connection with any product or service offered or sold by or on behalf of Petitioner, including by its licensees, affiliates and related entities, including without limitation the actual or intended marketing, sale and/or distribution of such goods and services.

8. Any assignment, consent, authorization, license, or permission to which Petitioner is a party concerning the use of Petitioner's OCTAGON marks and/or any variation thereof, including any modifications made to said assignment, consent, authorization, license, or permission.

9. Any commercial agreements concerning Petitioner's OCTAGON marks and/or any variation thereof.

10. The sale, transfer, assignment, conveyance, encumbrance, or lien of any intellectual property rights in, to, or under Petitioner's OCTAGON marks and/or any variation thereof.

11. The marketing, advertising and distribution efforts, plans and materials for each product or service bearing or intended to bear Petitioner's OCTAGON marks and/or any variation thereof, and the design and/or creation of the materials.

12. The geographical areas and channels of trade in which Petitioner's OCTAGON marks and/or any variation thereof have been used, are used, and/or are intended to be used.

13. The types of customers with whom Petitioner or its licensees, affiliates or related entities does or intends to do business, or to whom Petitioner or its licensees, affiliates or related entities offer or intend to offer its products or services under Petitioner's OCTAGON marks and/or any variation thereof.

14. Any and all instances of consumer confusion as to source, sponsorship of affiliation between Petitioner's and Registrant's products or services.

15. Unsolicited media coverage of Petitioner and its products and services bearing Petitioner's OCTAGON marks and/or any variation thereof, including, but not limited to, articles and features in newspapers, newsletters, magazines, and television and radio programs.

16. Business, financial, or marketing plans for products or services bearing Petitioner's OCTAGON marks and/or any variation thereof.

17. All studies, surveys, market research tests, and demographic or consumer profile studies (including the results thereof) relating and/or referring to the ultimate purchasers or potential ultimate purchasers of Petitioner or its licensees' products or services sold, offered for sale, advertised, or promoted, or intended to be sold, offered for sale, advertised, or promoted bearing Petitioner's OCTAGON marks and/or any variation thereof.

18. The date and circumstances under which Petitioner became aware of Registrant's use of and/or registration of its OCTAGON marks.

19. Petitioner's awareness of Registrant's use of and/or registrations of Registrant's OCTAGON Marks.

20. Any action taken by Petitioner in response to its awareness of Registrant's use of and/or registration of Registrant's OCTAGON Marks.

21. Any and all disputes between Petitioner and a third party concerning the use of any mark incorporating OCTAGON and/or any variation thereof.

22. Petitioner's claim that it would be damaged by Registrant's continued registration of the mark OCTAGON without a restriction to the recitation of services.

23. Petitioner's or its principal's ownership of and/or rights in and to customers with whom Petitioner or its licensees, affiliates or related entities does or intends to do business, or to whom Petitioner or its licensees, affiliates or related entities offer or intend to offer its products or services under Petitioner's OCTAGON marks and/or any variation thereof.

A list of all parties or attorneys for parties on whom this notice is being served is shown on the accompanying Proof of Service.

Dated: October 1, 2013

LOEB & LOEB LLP  
TAMARA CARMICHAEL  
MELANIE HOWARD  
JODI SAROWITZ

By: /s/ Tamara Carmichael  
Tamara Carmichael  
*Attorneys for Octagon Worldwide Holdings, B.V.,  
Registrant*

**CERTIFICATE OF SERVICE**

I, Jodi Sarowitz, hereby certify that a copy of this NOTICE OF DEPOSITION OF PETITIONER OCTAGON LAW GROUP F.R.C.P. 30(B)(6) has been served upon:

MARIA V HARDISON  
TASSAN & HARDISON  
4143 27TH STREET N  
ARLINGTON, VA 22207-5211

via first-class mail, postage pre-paid, on October 1, 2013.

/s/ Jodi Sarowitz

NY1224927.2  
202999-11329

# Exhibit B



**UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451**

Mailed: November 1, 2013

Cancellation No. 92056629

Octagon Law Group Inc.

v.

Octagon Worldwide Holdings  
B.V.

Jennifer Krisp, Interlocutory Attorney:

This proceeding is before the Board for consideration of respondent's September 30, 2013 motion to take petitioner's deposition orally, as well as respondent's October 15, 2013 motion to quash respondent's notice of deposition of petitioner.

To resolve the issues presented in the motions, the Board convened a telephone conference, held on October 31, 2013. See Trademark Rule 2.120(i)(1); TBMP § 502.06(a) (2013).<sup>1</sup> Participating were petitioner's counsel Maria

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<sup>1</sup> Telephone conferences are particularly useful for resolving motions where time is of the essence. The Board has the discretion to decide a motion by conference prior to the expiration of the written briefing period for filing a response and/or reply brief. If a response has not yet been filed, the non-moving party should be prepared to make an oral response to the motion during the conference. Similarly, if a reply brief in support of a pending motion has not yet been filed, the moving party should be prepared to present its reply during the conference. TBMP § 502.06(a) (2013).

Hardison, Esq., respondent's counsel Tamara Carmichael, Esq., and the assigned interlocutory attorney.

The Board has reviewed the parties' arguments and submissions, but for efficiency does not restate them herein in their entireties. This order summarizes the analysis and findings based on the briefs, and any responsive or reply arguments and clarifications made during the conference.

Trademark Rule 2.120(c)(1) provides:

The discovery deposition of a natural person residing in a foreign country who is a party or who, at the time set for the taking of the deposition, is an officer, director, or managing agent of a party, or a person designated under Rule 30(b)(6) or Rule 31(a) of the Federal Rules of Civil Procedure, shall, if taken in a foreign country be taken in the manner prescribed by § 2.124 unless the Trademark Trial and Appeal Board, upon motion for good cause, orders or the parties stipulate, that the deposition be taken by oral examination.

Trademark Rule 2.123(a)(2) provides:

A testimonial deposition taken in a foreign country shall be taken by deposition upon written questions as provided by § 2.124, unless the Board, upon motion for good cause, orders that the deposition be taken by oral examination, or the parties so stipulate.

In determining whether good cause exists for a motion to take a foreign deposition orally, the Board, taking into account all relevant circumstances, weighs the equities, including the advantages of an oral deposition, as well as any financial hardship that the nonmoving party might suffer if the deposition were taken orally in the foreign country. See *Jain v. Ramparts Inc.*, 49 USPQ2d 1429, 1431 (TTAB 1998);

*Orion Group Inc. v. Orion Insurance Co.P.L.C.*, 12 USPQ2d 1923, 1925-26 (TTAB 1989).

Counsel clarified that on October 1, 2013, respondent noticed the oral deposition of petitioner, pursuant to Fed. R. Civ. P. 30(b)(6), to take place November 7, 2013, in Toronto, Canada, where petitioner is located.<sup>2</sup>

The Board is satisfied that the common and standard advantages of taking the deposition orally, including the ability to confront the witness and employ exhibits in a direct fashion, are present in this proceeding.

Regarding direct financial hardship that petitioner might suffer if the deposition were taken orally in Canada, the Board finds that any such hardship - identified by counsel for petitioner as petitioner's expense of having its counsel travel to Toronto - is minimal. Counsel's travel is not an exceptional expense associated with litigation, and petitioner's situation does not pose extraordinary circumstances. By commencing this proceeding, petitioner is availing itself of a U.S. tribunal, and seeking to take the deposition orally is not overreaching on respondent's part. As a practical matter, travel to Toronto is not significantly more costly or more troublesome than travel within the fifty states. Counsel for petitioner has the

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<sup>2</sup> The notice of deposition is not of record in this proceeding. Counsel for petitioner clarified that petitioner does not contest

option to attend the deposition by teleconference; in general, the Board encourages parties to use technological benefits in taking depositions. See *Hewlett-Packard Co. v. Healthcare Personnel Inc.*, 21 USPQ2d 1552, 1553 (TTAB 1991).

Lastly, petitioner's argument regarding inconvenience and projected loss of income for its designee does not present a hardship which is unique to this deponent, or is of the nature that outweighs respondent's right to depose petitioner in the manner it deems to be most appropriate. Although acknowledged, this hardship is minimal. Counsel for respondent will travel to Toronto, and she indicated that she does not anticipate that the deposition will be inordinately lengthy.

In view of all of the circumstances presented on motion and during the conference, the Board finds that respondent has demonstrated good cause to justify taking the deposition of petitioner by oral examination, as noticed. Respondent's motion to take petitioner's deposition orally is granted. Petitioner's motion to quash respondent's notice is denied.

Discovery and trial dates remain as reset in the Board's February 14, 2013 order.

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any element of the notice, other than that which is briefed on the record herein.

# Exhibit C

Page 13	Page 15
<p>1 A. No.</p> <p>2 Q. Do you perform services</p> <p>3 on behalf of Heydary Green PC?</p> <p>4 A. No.</p> <p>5 Q. Do you have any role with</p> <p>6 Heydary Green PC?</p> <p>7 A. Not any executive or</p> <p>8 other than being principal shareholder in the</p> <p>9 company, no.</p> <p>10 Q. Do you have any</p> <p>11 management or supervisory roles with Heydary Green</p> <p>12 PC?</p> <p>13 A. No.</p> <p>14 Q. Are you employed with</p> <p>15 Heydary Elliott PC?</p> <p>16 A. I am.</p> <p>17 Q. What is the nature of</p> <p>18 your employment with Heydary Elliott PC?</p> <p>19 A. Identical to my role in</p> <p>20 Heydary Hamilton PC, i.e., I am the managing</p> <p>21 director. I perform some legal services for</p> <p>22 clients, and the duties would be very similar to</p> <p>23 the ones I have in Heydary Hamilton.</p> <p>24 Q. Are you employed with</p> <p>25 Heydary Samuel PC?</p>	<p>1 A. They are.</p> <p>2 Q. Does Octagon Law Group</p> <p>3 have contracts with each of those five clients?</p> <p>4 A. But can I ask? I don't</p> <p>5 see the relevance of your questions insofar as</p> <p>6 Octagon is concerned. Can you enlighten me? What</p> <p>7 do these questions on operations, ownership, and</p> <p>8 management of the Heydary law firms have to do</p> <p>9 with the Octagon Law Group?</p> <p>10 Q. Your lawyer is here. Is</p> <p>11 your lawyer sitting next to you to your left?</p> <p>12 A. Right.</p> <p>13 Q. Is he able to make</p> <p>14 objections if he would like to? Do you know?</p> <p>15 Maybe that is a question you don't know as a</p> <p>16 witness.</p> <p>17 MR. KALANDA: I will raise the</p> <p>18 same objection that Mr. Heydary raised.</p> <p>19 MS. CARMICHAEL: If you would</p> <p>20 like to object to relevance, you can object, and</p> <p>21 he can go ahead and answer.</p> <p>22 MR. KALANDA: Then we object</p> <p>23 on relevance.</p> <p>24 MS. CARMICHAEL:</p> <p>25 Q. My question is: Are the</p>
Page 14	Page 16
<p>1 A. I am not.</p> <p>2 Q. Do you perform any</p> <p>3 services for Heydary Samuel PC?</p> <p>4 A. Not to the best of my</p> <p>5 knowledge. There might be the odd occasion.</p> <p>6 Nothing that I can remember right now.</p> <p>7 Q. What is your role with</p> <p>8 Heydary Samuel PC?</p> <p>9 A. I am a principal</p> <p>10 shareholder in that company.</p> <p>11 Q. Are you employed with</p> <p>12 Heydary Hayes PC?</p> <p>13 A. I am.</p> <p>14 Q. What is your role with</p> <p>15 Heydary Hayes PC?</p> <p>16 A. I provide limited legal</p> <p>17 services. I have no executive role.</p> <p>18 Q. What limited legal</p> <p>19 services do you provide for Heydary Hayes PC?</p> <p>20 A. Very limited advice to</p> <p>21 clients, whom I assist on technology law, but it</p> <p>22 is very limited.</p> <p>23 Q. Are each of the five</p> <p>24 Heydary law firms that we just discussed clients</p> <p>25 of Octagon Law Group?</p>	<p>1 Heydary law firms clients of Octagon Law Group?</p> <p>2 A. Yes, they are.</p> <p>3 Q. Are there contracts</p> <p>4 between Octagon Law Group and any of the Heydary</p> <p>5 law firms?</p> <p>6 MR. KALANDA: Again, this</p> <p>7 whole area, we will object on relevance.</p> <p>8 MS. CARMICHAEL: Your</p> <p>9 objection is preserved.</p> <p>10 Q. Sir, you have to answer</p> <p>11 the questions. Relevance is not a basis to not</p> <p>12 answer the questions.</p> <p>13 MR. KALANDA: We would like to</p> <p>14 take that under advisement. We can provide an</p> <p>15 answer.</p> <p>16 MS. CARMICHAEL: That is not</p> <p>17 the basis. That is not a basis for a deposition.</p> <p>18 You both know that.</p> <p>19 Q. Are you refusing to</p> <p>20 answer the question?</p> <p>21 A. None of us practice U.S.</p> <p>22 law. I am a member of the New York bar, and as I</p> <p>23 stated on the record, I don't practice New York</p> <p>24 bar.</p> <p>25 Q. Do you have a U.S. lawyer</p>

Page 17	Page 19
<p>1 who represents you in these proceedings?</p> <p>2 A. Not in this session</p> <p>3 today.</p> <p>4 Q. Do you have a U.S. lawyer</p> <p>5 who represents you in the petition to cancel --</p> <p>6 A. Yes, we do.</p> <p>7 Q. -- brought by Octagon Law</p> <p>8 Group Inc. versus Octagon Worldwide Holdings BV?</p> <p>9 A. Yes.</p> <p>10 Q. What is her name?</p> <p>11 A. Her name would be --</p> <p>12 MR. KALANDA: Maria Hardison.</p> <p>13 MS. CARMICHAEL: You are not</p> <p>14 the witness.</p> <p>15 Q. Do you know your lawyer's</p> <p>16 name?</p> <p>17 A. No, not personally,</p> <p>18 because she is retained by the company. My</p> <p>19 counsel can address that, can provide you with the</p> <p>20 name. I don't know the name.</p> <p>21 Q. I think we are going to</p> <p>22 take a five-minute break. You do have a lawyer.</p> <p>23 Why don't you give her a call and have a brief</p> <p>24 discussion with her about what questions you need</p> <p>25 to answer or not answer.</p>	<p>1 A. I said we would find out.</p> <p>2 Maria V. Hardison.</p> <p>3 Q. A few moments ago, before</p> <p>4 the break, you talked about the five different</p> <p>5 Heydary law firms?</p> <p>6 A. Yes.</p> <p>7 Q. Are each of those five</p> <p>8 Heydary law firms clients of Octagon Law Group</p> <p>9 Inc.?</p> <p>10 A. They are.</p> <p>11 Q. Do any or each of the</p> <p>12 Heydary law firms have contracts with Octagon Law</p> <p>13 Group Inc.?</p> <p>14 MR. KALANDA: We are going to</p> <p>15 object to that. It is confidential business</p> <p>16 information and we won't be providing an answer.</p> <p>17 MS. CARMICHAEL: That is not</p> <p>18 the basis for objecting to a deposition.</p> <p>19 Q. Forgive me. That is not</p> <p>20 the basis for not responding to a deposition</p> <p>21 question.</p> <p>22 A. You can note that I am</p> <p>23 refusing to answer that question on that basis.</p> <p>24 That is confidential business information.</p> <p>25 Q. Without asking advice</p>
Page 18	Page 20
<p>1 If you are going to refuse to</p> <p>2 answer the questions, we will note that you refuse</p> <p>3 to answer the questions. We will take it up with</p> <p>4 the TTAB and come back if we need to. But we will</p> <p>5 give you five minutes as a courtesy to go talk</p> <p>6 with your U.S. lawyer about the scope of</p> <p>7 questions.</p> <p>8 MR. KALANDA: Thank you.</p> <p>9 --- Recess taken at 10:38 a.m.</p> <p>10 --- Upon resuming at 10:46 a.m.</p> <p>11 MS. CARMICHAEL: Let the</p> <p>12 record reflect that the witness and his attorney</p> <p>13 just came back into the room.</p> <p>14 Q. Were you able to speak</p> <p>15 with your U.S. lawyer?</p> <p>16 A. I was.</p> <p>17 Q. Can you read back the</p> <p>18 last question, please?</p> <p>19 THE COURT REPORTER: The last</p> <p>20 question was, "Do you know your lawyer's name?"</p> <p>21 But before that --</p> <p>22 MS. CARMICHAEL: I will do it.</p> <p>23 Q. Let me ask that question</p> <p>24 again. Do you know your lawyer's name, your U.S.</p> <p>25 lawyer's name for these proceedings?</p>	<p>1 that your U.S. counsel gave you -- be careful not</p> <p>2 to intertwine that with your answer --</p> <p>3 confidentiality, I am telling your lawyer, is not</p> <p>4 the basis to refuse to answer a question.</p> <p>5 The only basis upon which you</p> <p>6 can refuse to answer a question is advice of</p> <p>7 counsel, meaning it is attorney-client or work</p> <p>8 product privilege. Confidentiality is protected</p> <p>9 by other mechanisms. I will ask you one more</p> <p>10 time.</p> <p>11 A. Counsel, you have my</p> <p>12 answer. Please let's move on. I am refusing to</p> <p>13 answer the question based on the fact that the</p> <p>14 question is confidential, notwithstanding the fact</p> <p>15 it is irrelevant, but it is strictly confidential.</p> <p>16 Q. Is whether or not the</p> <p>17 five Heydary law firms are clients confidential?</p> <p>18 A. No, that I answered. I</p> <p>19 said they are clients. You asked me --</p> <p>20 Q. But whether or not they</p> <p>21 have contracts is confidential?</p> <p>22 A. Yes.</p> <p>23 Q. Does Octagon Law Group</p> <p>24 Inc. have any clients other than the five Heydary</p> <p>25 law firms?</p>

Page 21	Page 23
<p>1 Let me back up. Are each of 2 the five Heydary law firms clients of Octagon Law 3 Group?</p> <p>4 MR. KALANDA: I believe that 5 was just answered.</p> <p>6 MS. CARMICHAEL: I am just 7 clarifying.</p> <p>8 Q. Each of them are? Each 9 of the five? There is not: Four of them are and 10 one of them is not?</p> <p>11 Are each of the five Heydary 12 law firms clients of Octagon Law Group?</p> <p>13 A. The general answer would 14 be yes, subject to some qualifications, which I 15 cannot elaborate on due to the confidential nature 16 of the relationships.</p> <p>17 Q. Apart from the five 18 Heydary law firms, does Octagon Law Group have any 19 other clients?</p> <p>20 A. Yes.</p> <p>21 Q. How many?</p> <p>22 A. Confidential information. 23 I refuse to answer the question.</p> <p>24 Q. I am going to start 25 saying "mark these questions." Go ahead and mark</p>	<p>1 Hayes is a technology IP firm; Heydary Samuel is a 2 real estate firm; and Heydary Green is a family 3 and estates firm.</p> <p>4 Q. Is it fair to say that 5 the primary difference is the substantive practice 6 area of each of the firms?</p> <p>7 A. That is correct.</p> <p>8 Q. Are you familiar with Red 9 Seal Notary?</p> <p>10 A. I am.</p> <p>11 Q. What is Red Seal Notary?</p> <p>12 A. A notary public company.</p> <p>13 Q. What services does Red 14 Seal Notary perform?</p> <p>15 A. Notary public, commission 16 of oath services, authentications, legalizations.</p> <p>17 Q. What is the full 18 corporate name for Red Seal Notary?</p> <p>19 A. Red Seal Notary Inc.</p> <p>20 Q. Where is Red Seal Notary 21 Inc. incorporated?</p> <p>22 A. I believe Canada, a 23 Canada corporation.</p> <p>24 Q. Do you have a role with 25 Red Seal Notary Inc.?</p>
Page 22	Page 24
<p>1 that.</p> <p>2 If we get too far along in 3 this process and we are getting refusals to answer 4 questions that are perfectly appropriate for this 5 deposition, we are going to terminate the 6 deposition and file a motion to compel and for 7 sanctions, and if we have to come back here, we 8 are going to look for you guys to pay that, pay 9 for those fees and costs. You may want to 10 consider that.</p> <p>11 MR. KALANDA: Noted.</p> <p>12 THE WITNESS: Noted. Thank 13 you.</p> <p>14 MS. CARMICHAEL:</p> <p>15 Q. What are the names of 16 other clients of Octagon Law Group?</p> <p>17 A. That is confidential 18 information.</p> <p>19 Q. What is the difference 20 between each of the Heydary law firms, type of 21 practice, high level?</p> <p>22 A. The practices are marked 23 on their web site. If you would like me to repeat 24 them, Heydary Elliott is a litigation firm; 25 Heydary Hamilton is a business law firm; Heydary</p>	<p>1 A. I am the CEO. My role is 2 nominal, apart from the title CEO. I am not 3 involved in the daily operations of the company.</p> <p>4 Q. Are you a shareholder?</p> <p>5 A. That is confidential 6 information.</p> <p>7 MR. KALANDA: It is also 8 irrelevant.</p> <p>9 MS. CARMICHAEL:</p> <p>10 Q. Is that part of the 11 public records in Canada?</p> <p>12 A. It is not, but I can 13 state that the company has over 10 shareholders. 14 Not at liberty to discuss the identity of those 15 individuals.</p> <p>16 Q. Is it your testimony that 17 you have no day-to-day role with Red Seal Notary 18 Inc.?</p> <p>19 A. Not an operational daily 20 basis, no.</p> <p>21 Q. Is Red Seal Notary Inc. a 22 client of Octagon Law Group?</p> <p>23 A. It is.</p> <p>24 Q. Does Octagon Law Group 25 have a contract with Red Seal Notary Inc.?</p>



Page 25	Page 27
<p>1 MR. KALANDA: I think we are 2 going to object to that for the same reasons as 3 the previous contractual questions. 4 MS. CARMICHAEL: Mark that, 5 please. 6 Q. What services does 7 Octagon Law Group Inc. provide for Red Seal 8 Notary? 9 A. Back office services, 10 overall HR, admin, IT, marketing. 11 Q. Anything else? 12 A. Not to the best of my 13 knowledge. 14 Q. What HR services does 15 Octagon Law Group Inc. provide for Red Seal 16 Notary? 17 A. That would be 18 confidential, the details, beyond general HR 19 services. 20 Q. Is your answer going to 21 be the same for administrative, IT, and marketing 22 services? 23 A. It would be. As to the 24 details, yes. I can confirm they provide those 25 services, as to the details, not to mention it</p>	<p>1 services? 2 A. Yes. 3 Q. Does it provide marketing 4 services? 5 A. Right. 6 Q. Are there any other 7 services that Octagon Law Group provides to 8 Heydary Elliott? 9 A. General business 10 consulting relating to law firm financing, M&amp;A, 11 and general management advice. 12 Q. What does that mean, 13 management advice? 14 A. Confidential information. 15 Q. I will make it easy for 16 everybody. Would your answer to those questions 17 be the same for Heydary Hamilton PC? 18 A. Yes. 19 Q. Would your answers be the 20 same for Heydary Samuel PC? 21 A. Yes. 22 Q. Would your answers be the 23 same for Heydary Green PC? 24 A. Yes. 25 Q. Would your answers be the</p>
Page 26	Page 28
<p>1 would be also irrelevant, but I am relying on the 2 confidentiality of the information for my refusal. 3 Q. Are you refusing to 4 answer any questions about the services provided 5 by Octagon Law Group Inc. with respect to Red Seal 6 Notary? 7 A. If it refers -- any 8 client of Octagon, information regarding their 9 operations would be confidential on a number of 10 levels. Just because I have a cross appointment 11 does not put me at liberty to disclose to you 12 operational information of our client. 13 Q. What services does 14 Octagon Law Group Inc. provide to Heydary Elliott 15 PC? 16 A. It would be similar to 17 those listed for Red Seal, and it would have the 18 same answer for all the Heydary law firms. 19 Q. Does Octagon Law Group 20 Inc. provide HR services to Heydary Elliott? 21 A. Yes. 22 Q. Does it provide 23 administrative services? 24 A. Yes. 25 Q. Does it provide IT</p>	<p>1 same for Heydary Hayes PC? 2 A. Yes. 3 Q. Are you refusing to 4 answer questions with respect to other than 5 marketing, other than HR, administrative, IT, 6 marketing, and general business services being 7 provided that you are refusing to give any details 8 of what those services are? 9 A. Details I am refusing, 10 yes, because it would be a breach of 11 confidentiality, and that breach of 12 confidentiality can be broken into two parts. 13 One is our obligations in 14 Octagon towards those entities as clients. 15 Second, the trade secret and confidential nature 16 of some of the operations relating to Octagon 17 itself. 18 Q. Can you say that last 19 part again or read it back? The trade secret 20 nature? 21 --- (Readback provided) 22 MS. CARMICHAEL: 23 Q. By Octagon, you mean 24 Octagon Law Group Inc.? 25 A. I do.</p>

Page 29	Page 31
<p>1 Q. It is your position that</p> <p>2 the way Octagon Law Group Inc. operates its</p> <p>3 business includes trade secret and confidential</p> <p>4 business processes? Is that a fair statement?</p> <p>5 A. It has aspects of that.</p> <p>6 It is a unique company. To the best of our</p> <p>7 knowledge, it is one of the first if not the first</p> <p>8 company to be dedicated to those services, so a</p> <p>9 lot of processes it has, they were, for lack of a</p> <p>10 better word, invented by the company.</p> <p>11 The whole industry is a new</p> <p>12 one. We are sure the company is the first of its</p> <p>13 kind in Canada and the U.S., based on our</p> <p>14 research. Being a unique company, the first in</p> <p>15 its field, a lot of the processes it has relating</p> <p>16 to its operations would be covered by trade</p> <p>17 secret.</p> <p>18 Q. What are some of those</p> <p>19 processes?</p> <p>20 MR. KALANDA: I think we are</p> <p>21 going to object to that.</p> <p>22 MS. CARMICHAEL:</p> <p>23 Q. I have to have it on the</p> <p>24 record that he is refusing.</p> <p>25 A. Yes.</p>	<p>1 publication that is put out by Heydary Hayes?</p> <p>2 A. I believe it is, yes.</p> <p>3 Q. Do you know what entity</p> <p>4 owns the copyright to publications put out by</p> <p>5 Lawsof.com?</p> <p>6 A. No, I am not sure. I</p> <p>7 would assume it is Heydary Hayes. I am not sure.</p> <p>8 Q. Does Octagon Law Group</p> <p>9 Inc. perform services for Lawsof.com? Your lawyer</p> <p>10 can't answer the question.</p> <p>11 A. I am not sure I have the</p> <p>12 information you are asking me. Even if I did, it</p> <p>13 would be confidential if they are a client.</p> <p>14 Q. Are you familiar with</p> <p>15 Octagon Law Group Inc.'s web site?</p> <p>16 A. Yes.</p> <p>17 Q. You have reviewed that</p> <p>18 web site before? Are you aware that the Octagon</p> <p>19 Law Group Inc. web site lists some clients, and</p> <p>20 one of those clients is Lawsof.com?</p> <p>21 A. I take your word. Have I</p> <p>22 seen it myself?</p> <p>23 Q. I am asking if you are</p> <p>24 aware of that.</p> <p>25 A. I haven't reviewed that</p>
Page 30	Page 32
<p>1 Q. What is Lawsof.com? Have</p> <p>2 you heard of that company before?</p> <p>3 A. It is not a company. It</p> <p>4 is a publication.</p> <p>5 Q. What is that?</p> <p>6 A. It is an electronic</p> <p>7 publication covering technology and IP law.</p> <p>8 Q. Is there a company that</p> <p>9 owns Lawsof.com?</p> <p>10 A. Not to the best of my</p> <p>11 knowledge. I am not involved with that</p> <p>12 publication at this moment.</p> <p>13 Q. Do you know anyone who is</p> <p>14 involved in that publication?</p> <p>15 A. The managing editor, I</p> <p>16 believe, is Mark Hayes.</p> <p>17 Q. You say he is the</p> <p>18 managing publisher?</p> <p>19 A. Editor.</p> <p>20 Q. Managing editor. I</p> <p>21 apologize.</p> <p>22 Do you know who or what entity</p> <p>23 employs Mark Hayes?</p> <p>24 A. Heydary Hayes.</p> <p>25 Q. Is Lawsof.com a</p>	<p>1 page. That is why my answer to you was that it</p> <p>2 could be a client.</p> <p>3 Q. Would you consider the</p> <p>4 Octagon Law Group Inc. web site part of Octagon</p> <p>5 Law Group Inc.'s marketing initiatives?</p> <p>6 A. I would guess so.</p> <p>7 Q. I am going to ask you</p> <p>8 some questions today about the Octagon Law Group</p> <p>9 Inc. web site. I will give you a copy of the</p> <p>10 pages. I think it is important that under the</p> <p>11 deposition notice, Exhibit 1, paragraph 11, we are</p> <p>12 going to ask questions about that web site and the</p> <p>13 marketing initiatives.</p> <p>14 I think it is important that</p> <p>15 you have reviewed that. If you would like to take</p> <p>16 a five-minute break and review the web site, we</p> <p>17 can come back and start with some of those</p> <p>18 questions.</p> <p>19 A. That is fine. You can go</p> <p>20 ahead. I probably can pick up the web site on my</p> <p>21 phone.</p> <p>22 Q. We are not putting the</p> <p>23 web site in front of you. If you want to take a</p> <p>24 few minutes and look at it --</p> <p>25 A. If you want to put a copy</p>

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<p>1 of the page to me when you ask the question, I can 2 confirm it or deny. 3 Q. We will go ahead and mark 4 this as Exhibit 2. 5 EXHIBIT NO. 2: 6 Petitioner's Response to 7 Registrant's First Set of 8 Document Requests. 9 MS. CARMICHAEL: 10 Q. I have handed you a copy 11 of Exhibit 2. This document is entitled 12 Petitioner's Response to Registrant's First Set of 13 Document Requests. Is that correct? 14 A. Yes. 15 Q. Are you familiar with 16 this document? 17 A. Yes. 18 Q. Have you seen it before? 19 A. I believe so. 20 Q. Did you participate in 21 preparing the responses to this document request? 22 A. I must have. 23 Q. If you look at the end, 24 the last five pages of the exhibit, they are pages 25 from Octagon Law Group Inc.'s web site. Is that</p>	<p>1 Q. Does Octagon Law Group 2 Inc. have a contract with Lawsof.com? 3 A. That would be -- 4 MR. KALANDA: We are objecting 5 on confidentiality. 6 MS. CARMICHAEL: 7 Q. What services does 8 Octagon Law Group Inc. render with respect to 9 Lawsof.com? 10 MR. KALANDA: Same issue as -- 11 the details of the services are part of, Mr. 12 Heydary has explained, trade secrets and 13 confidential information. 14 MS. CARMICHAEL: 15 Q. How many other clients 16 apart from those we have discussed today does 17 Octagon Law Group Inc. have in Canada? 18 A. I can confirm it has 19 other clients. Any details beyond that would be 20 covered by both trade secrets and confidential 21 information. 22 Q. Are you refusing to tell 23 us the names of those other clients? 24 A. I am, and a lot of those, 25 for the record, law firms using Octagon --</p>
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<p>1 correct? 2 A. Not in my copy. 3 MR. KALANDA: I have here 4 Petitioner's Response to Registrant's First Set of 5 Interrogatories. 6 MS. CARMICHAEL: Did I give 7 you the wrong one? Sorry. We might have marked 8 the wrong one. Let's substitute this for 9 Exhibit 2. I have given you the newly marked 10 Exhibit 2. 11 Can I see that for one moment? 12 I only have one copy of this. I will do it the 13 way we did it before. Can we just pause for a 14 moment? 15 --- (Off-record discussion) 16 MS. CARMICHAEL: 17 Q. Now we are looking at the 18 last five pages of Exhibit 2. That was copies of 19 the Octagon Law Group web site? 20 A. They seem to be, yes. 21 Q. If you look at the very 22 last of those pages, is it correct that the 23 Octagon Law Group web site lists Lawsof.com as a 24 client? 25 A. It does.</p>	<p>1 entities using Octagon, for the most part, would 2 be law firms, and they would be very sensitive 3 about any publicity and because of the nature of 4 the services provided, whether it is financial, 5 operational, consulting services or law firm M&amp;As. 6 Q. Does Octagon Law Group 7 Inc. have any clients in the United States? 8 A. Not to the best of my 9 knowledge. 10 Q. Do any of Octagon Law 11 Group Inc.'s clients render services in the United 12 States? 13 A. Confidential information. 14 I couldn't answer that. 15 Q. Where is Octagon Law 16 Group Inc. incorporated? 17 A. It is a Canada 18 corporation, I believe. 19 Q. Is it a public 20 corporation or a private corporation? 21 A. It is a private 22 corporation. 23 Q. Are you a shareholder of 24 Octagon Law Group Inc.? 25 A. I am not.</p>

<p style="text-align: right;">Page 37</p> <p>1 Q. How many shareholders are 2 there of Octagon Law Group Inc.? 3 A. That is, apart from 4 irrelevant, that is confidential information. 5 Q. Is it more than 10 or 6 less than 10? 7 A. I cannot comment on that. 8 Q. Are there any individuals 9 who are shareholders of Octagon Law Group Inc.? 10 A. I cannot comment on that. 11 Q. When you say you cannot 12 comment on that, do you mean you are refusing to 13 answer the question? 14 MR. KALANDA: We are refusing, 15 yes. 16 MS. CARMICHAEL: 17 Q. Are any of the 18 Heydary law firms shareholders in Octagon Law 19 Group Inc.? 20 A. They are not. 21 Q. Who are the officers of 22 Octagon Law Group Inc.? 23 A. I believe I am the CEO 24 and the president. I would have to check our 25 corporate records, but I think the second</p>	<p style="text-align: right;">Page 39</p> <p>1 Octagon Law Group Inc.'s web site? 2 A. If they are, they are. I 3 don't know what our contractual obligations are to 4 those employees, what I can disclose, what I 5 cannot, not to mention the relevance, but we leave 6 that aside. 7 Q. I am entitled to ask you 8 about who the employees of the company are and 9 what their roles are and what they do. 10 A. I am refusing to answer 11 that. You can mark my refusal. We will move on. 12 You can rely on the web site and assume those 13 people are employees of Octagon. 14 Q. You are going to refuse 15 to answer any questions about who key employees or 16 employees generally are and what they do for the 17 company? 18 A. I refuse to answer any 19 question that will force me to disclose 20 confidential information about Octagon and its 21 operation. 22 Q. Do you consider what key 23 employees do and what their role is at Octagon Law 24 Group Inc. to be confidential information? 25 A. If it is beyond what is</p>
<p style="text-align: right;">Page 38</p> <p>1 officer-director is Ms. Jenny Chai. Beyond that, 2 I would have to check our corporate records. I 3 believe the two of us are the two 4 officers-directors, but I could be incorrect. We 5 can verify that and forward you the information if 6 there are others. 7 Q. How many employees does 8 Octagon Law Group Inc. have? 9 A. That is confidential 10 trade secret information. 11 Q. You are refusing to 12 answer that question, how many employees the 13 company has? 14 A. Yes. 15 Q. How many key employees 16 does Octagon Law Group Inc. have? 17 A. That question I can 18 answer. About seven. 19 Q. Who are the key 20 employees? 21 A. I cannot disclose that, 22 apart from the ones who are public employees, such 23 as myself and Ms. Chai. 24 Q. Is it helpful if I remind 25 you that some of those key employees are listed on</p>	<p style="text-align: right;">Page 40</p> <p>1 posted on the web site or is made public, yes. 2 Not the information that is posted on the web site 3 or made public. Anything beyond that would be 4 confidential. 5 Q. Who is Jenny Chai? 6 A. Jenny Chai is a 7 director-officer of Octagon. She is currently on 8 maternity leave. 9 Q. That might be 10 confidential information. Just kidding. 11 A. Actually, it is not. 12 Q. What is her role at 13 Octagon Law Group Inc.? 14 A. She is, I believe, 15 director of operations. That is why maternity 16 leave is not confidential, because I will need to 17 disclose to you that she is on mat leave now. 18 Q. What does she do in her 19 role as director of operations? 20 A. General oversight of 21 operations. Beyond that, the details, it would be 22 confidential, but I can confirm she is the overall 23 head of operations. 24 Q. Does she have any role in 25 marketing services that Octagon Law Group Inc.</p>

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<p>1 renders to its clients?</p> <p>2 A. Not a primary role.</p> <p>3 Might be an ancillary role. Not to the best of my</p> <p>4 knowledge.</p> <p>5 Q. Who is Michelle Jackson?</p> <p>6 A. Ms. Jackson is the head</p> <p>7 of HR for Octagon.</p> <p>8 Q. Does she have any role in</p> <p>9 the marketing services Octagon Law Group Inc.</p> <p>10 renders to any of its clients?</p> <p>11 A. To the best of my</p> <p>12 knowledge, maybe ancillary.</p> <p>13 Q. Who is Jeffrey Landmann?</p> <p>14 A. He is a member of the</p> <p>15 Octagon management team. He might be the head of</p> <p>16 Heydary VP or head of litigation. I can't exactly</p> <p>17 recall, but you can rely on the posting on the web</p> <p>18 site. That would be accurate.</p> <p>19 Q. If there is one?</p> <p>20 A. If there is one.</p> <p>21 Q. You said he might be head</p> <p>22 of litigation for Octagon Law Group. Is that</p> <p>23 correct?</p> <p>24 A. I don't recall what his</p> <p>25 role is. If it is something that could be made</p>	<p>1 Q. Thank you. Does Jeffrey</p> <p>2 Landmann participate in the marketing services</p> <p>3 rendered by Octagon Law Group Inc. to its clients?</p> <p>4 A. It is not one of his</p> <p>5 primary responsibilities, to the best of my</p> <p>6 knowledge.</p> <p>7 Q. It is a secondary</p> <p>8 responsibility?</p> <p>9 A. I don't know the answer</p> <p>10 to that. I know it is not primary.</p> <p>11 Q. What are Jeffrey</p> <p>12 Landmann's responsibilities for Octagon Law Group</p> <p>13 Inc.?</p> <p>14 A. Those that can be made</p> <p>15 public are listed on the web site. Beyond that, I</p> <p>16 cannot disclose anything.</p> <p>17 Q. You are refusing to</p> <p>18 answer?</p> <p>19 A. Yes.</p> <p>20 Q. Who is Nirmala Singh?</p> <p>21 Forgive me if I mispronounced that.</p> <p>22 A. She is an executive</p> <p>23 overseeing, I believe, client -- corporate</p> <p>24 development and general consulting services. I do</p> <p>25 believe she is currently covering for Ms. Chai on</p>
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<p>1 public, it would be posted on the web site. I</p> <p>2 don't know his official title. That is what I am</p> <p>3 trying to get at.</p> <p>4 Q. Is there a litigation</p> <p>5 group within Octagon Law Group Inc.?</p> <p>6 A. I think generally,</p> <p>7 without getting into the details, I think that is</p> <p>8 services that are provided to litigation firms,</p> <p>9 not the company's own litigation.</p> <p>10 Q. Does Jeffrey Landmann</p> <p>11 participate in rendering marketing services -- I</p> <p>12 am going to ask you to move the PDAs and things</p> <p>13 away. We shouldn't be looking at computers and</p> <p>14 things during the deposition. Thank you. Not</p> <p>15 you, but the witness.</p> <p>16 Does Jeffrey Landmann</p> <p>17 participate at all in the marketing services</p> <p>18 rendered by Octagon Law Group Inc. to its clients?</p> <p>19 A. Before I answer, I would</p> <p>20 like the record to show that neither myself nor my</p> <p>21 counsel was reading any electronic devices. I had</p> <p>22 my own in front beside me, because examining</p> <p>23 counsel asked me to review the web site. At her</p> <p>24 request, it has been put aside. Your question,</p> <p>25 counsel, again?</p>	<p>1 her mat leave.</p> <p>2 Q. Pardon me?</p> <p>3 A. I believe she is also</p> <p>4 playing the role of covering for Ms. Chai in light</p> <p>5 of the fact that she is on mat leave.</p> <p>6 Q. What is corporate</p> <p>7 development?</p> <p>8 A. Growth plans for the</p> <p>9 company, strategic alliances.</p> <p>10 Q. Is that business</p> <p>11 development services for the company?</p> <p>12 A. No. It would have a</p> <p>13 business development aspect, but it would be more</p> <p>14 focused on the long-term plans for the company</p> <p>15 when it comes to its growth and strategic</p> <p>16 alliances and partnerships.</p> <p>17 Q. Does Octagon Law Group</p> <p>18 Inc. have strategic alliances with third-party</p> <p>19 persons or entities?</p> <p>20 A. I cannot disclose that</p> <p>21 information. It is confidential.</p> <p>22 Q. You won't answer whether</p> <p>23 it is yes or no?</p> <p>24 A. No, I cannot answer.</p> <p>25 Q. What types of strategic</p>



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<p>1 alliances might Octagon Law Group Inc. have with 2 third parties? 3 A. It might entail to join 4 efforts to offer services, or it might entail 5 providing business advice to law firms when it 6 comes to their M&amp;A plans. It can be a number of 7 fronts. 8 Q. What persons or types of 9 entities would be strategic alliance partners with 10 Octagon Law Group Inc. in the rendering of Octagon 11 Law Group Inc.'s services? 12 A. Hypothetically speaking, 13 it could be an accounting firm that specializes in 14 providing accounting services for law firms, 15 hypothetically speaking. 16 Q. Are you refusing to 17 answer questions with respect to the identity of 18 any strategic partners Octagon Law Group Inc. has? 19 A. I am. What I can 20 confirm, if that is relevant to your client, none 21 of them are in a competing business to that of 22 your client. 23 Q. That is your opinion, and 24 I didn't ask that question, so I am going to move 25 to strike that last sentence.</p>	<p>1 Q. I appreciate that that is 2 an example. How would Octagon Law Group Inc. 3 define entities that provide legal services? 4 A. It would be entities 5 whose primary function was either catering to the 6 legal profession or providing legal services to 7 the public. 8 Q. Can you read that back 9 for me? 10 --- (Readback provided) 11 MS. CARMICHAEL: 12 Q. When you say "providing 13 legal services to the public," as part of entities 14 that provide legal services, meaning non-law firm 15 services? 16 A. It would include law 17 firms and otherwise. Just to be clear, I gave you 18 two main groups. One are entities that can be 19 service providers to the legal industry, such as 20 an accounting firm that focuses on the legal 21 industry, a company that publishes legal forms. 22 The second heading would be 23 entities that provide legal services to the 24 public, which includes law firms, but, again, is 25 more than law firms, and again, the best example</p>
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<p>1 Does Octagon Law Group Inc. 2 have clients other than law firms? 3 A. Other than the notary 4 public, I can confirm Octagon does not have 5 clients other than entities that provide legal 6 services, whether they are a full-fledged law firm 7 or a company such as Red Seal Notary, but at this 8 moment, all of Octagon's clients are entities that 9 provide some sort of service directed at the legal 10 profession. 11 Q. Would you agree that law 12 firms can be different than entities that provide 13 legal services? 14 A. Yes, I would agree. 15 Q. How do you define a law 16 firm? 17 A. I would say a law firm 18 would constitute -- let me put it this way. A law 19 firm would be an entity, membership in which would 20 be limited to lawyers, qualified lawyers. 21 Q. How would Octagon Law 22 Group Inc. define entities that provide legal 23 services? 24 A. A good example would be 25 Red Seal Notary.</p>	<p>1 would be Red Seal Notary. 2 Just to be clear, the primary 3 client base would be those entities that provide 4 legal services to the public. 5 Q. What are some examples of 6 that? 7 A. Law firms, notary 8 companies, paralegal companies, and so forth. 9 Q. What else? Law firms, 10 paralegal companies, notary companies? 11 A. I would be disclosing 12 confidential information. I can give you 13 hypothetical potential clients. I would say it 14 captures any company that provides legal services. 15 If that is not clear, you can ask me a specific 16 question, and I am happy to answer it. 17 Q. Would a potential client 18 for Octagon Law Group Inc. include service 19 providers that provide services to legal entities 20 but it is not a primary part of their business? 21 A. Not really, no, not to 22 the best of my knowledge. 23 Q. Octagon Law Group Inc. 24 would turn away that business if it was offered to 25 it?</p>

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<p>1 contractor.</p> <p>2 It depends how you define it,</p> <p>3 if you mean employee versus contractor, whether</p> <p>4 you mean primary. I can confirm that Octagon has</p> <p>5 people who assist with marketing.</p> <p>6 Q. Does Octagon Law Group</p> <p>7 Inc. work with independent contractors apart from</p> <p>8 persons employed by Octagon Law Group Inc.?</p> <p>9 A. Yes.</p> <p>10 Q. How many?</p> <p>11 A. I cannot disclose that.</p> <p>12 That is confidential information.</p> <p>13 Q. What types of services do</p> <p>14 the independent contractors provide for Octagon</p> <p>15 Law Group Inc.?</p> <p>16 A. It would be general</p> <p>17 business services. Beyond that, I cannot answer</p> <p>18 that question. It would be confidential.</p> <p>19 Q. Have any of the</p> <p>20 independent contractors or employees for Octagon</p> <p>21 Law Group looked for business opportunities in the</p> <p>22 United States?</p> <p>23 A. Not to the best of my</p> <p>24 knowledge.</p> <p>25 Q. Do you know the answer to</p>	<p>1 plans and materials for products or services</p> <p>2 bearing your Octagon marks as defined.</p> <p>3 Have there been any efforts on</p> <p>4 behalf of Octagon Law Group Inc. with respect to</p> <p>5 developing business in the United States?</p> <p>6 A. Not at this point. Other</p> <p>7 than the online web site we have, we have made no</p> <p>8 effort to market services in the U.S.</p> <p>9 Q. Do you consider the web</p> <p>10 site to be an effort to market services in the</p> <p>11 United States?</p> <p>12 A. No, because we would not</p> <p>13 take a client from the U.S., just the fact it is</p> <p>14 online. At this point, we have not accepted nor</p> <p>15 solicited any clients in the U.S.</p> <p>16 Q. Do employees or</p> <p>17 independent contractors who are involved in the</p> <p>18 marketing efforts on behalf of Octagon Law Group</p> <p>19 attend trade shows or conferences?</p> <p>20 A. I don't know the answer</p> <p>21 to that question.</p> <p>22 Q. They might but you don't</p> <p>23 know?</p> <p>24 A. I don't know.</p> <p>25 Q. What do you know about</p>
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<p>1 that question?</p> <p>2 A. As I said, not to the</p> <p>3 best of my knowledge.</p> <p>4 Q. Who would know the answer</p> <p>5 to that question?</p> <p>6 A. Probably myself, but you</p> <p>7 are asking a question that nobody in the</p> <p>8 organization might know the answer to, because if</p> <p>9 the person in question didn't disclose it to us,</p> <p>10 then we wouldn't know, but it doesn't mean no such</p> <p>11 person exists. I am telling you, based on the</p> <p>12 information we have, no.</p> <p>13 Q. If I talk to any of the</p> <p>14 independent contractors or employees who render</p> <p>15 marketing services for Octagon Law Group Inc.,</p> <p>16 would they be able to answer whether or not they</p> <p>17 have solicited business opportunities or responded</p> <p>18 to business opportunity inquiries emanating from</p> <p>19 the United States or in the United States?</p> <p>20 A. I cannot answer that.</p> <p>21 Q. You don't know?</p> <p>22 A. I don't know.</p> <p>23 Q. Looking back at</p> <p>24 Exhibit 1, question 11 again talks about the</p> <p>25 marketing, advertising or distribution efforts,</p>	<p>1 Octagon Law Group --</p> <p>2 A. I can confirm they would</p> <p>3 not be doing any of those activities at a request</p> <p>4 from Octagon. I want to be very clear. If you</p> <p>5 are asking me what they do in their private time,</p> <p>6 I can't answer.</p> <p>7 Q. I am not asking about</p> <p>8 their private time. I am asking about --</p> <p>9 A. On behalf of Octagon?</p> <p>10 Q. -- on behalf of Octagon</p> <p>11 Law Group Inc.?</p> <p>12 A. Absolutely not.</p> <p>13 Q. None of them have ever</p> <p>14 attended a trade show or conference?</p> <p>15 A. Not on behalf of Octagon.</p> <p>16 Q. What do persons involved</p> <p>17 in the marketing efforts of Octagon Law Group Inc.</p> <p>18 do? How do they market Octagon Law Group Inc.?</p> <p>19 A. Primarily targeting law</p> <p>20 firms, legal entities in Canada, with a more</p> <p>21 narrow focus in Ontario.</p> <p>22 The thrust of most of</p> <p>23 Octagon's marketing activity has been in</p> <p>24 publications that target law firms and lawyers,</p> <p>25 such as the Ontario Reports. That is a</p>

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<p>1 publication every lawyer receives in Ontario. Law 2 Times, another publication targeting lawyers, and 3 so forth.</p> <p>4 Q. What publications has 5 Octagon Law Group Inc. made in any or either of 6 these publications?</p> <p>7 A. They published ads, 8 full-page ads, in Ontario Reports and other 9 sizable ads in Law Times.</p> <p>10 Q. Anything else? 11 A. I am sure there are, but 12 the general thrust of it would be any publications 13 targeting the legal profession. There might be 14 others. Those two are the biggest campaigns they 15 have done.</p> <p>16 Those two campaigns I referred 17 to are the major campaigns they undertook, and 18 there might be other ones. I am sure there are, 19 but they would be of the same nature. By the same 20 nature, I mean publications where the target 21 audience is law firms or lawyers.</p> <p>22 Q. Is Octagon Law Group Inc. 23 trying to grow its business in Canada? 24 A. Yes. 25 Q. What else does Octagon</p>	<p>1 are the publications in Ontario Reports and Law 2 Times, attending networking events, sponsoring 3 events, and following up on referrals. Is that 4 correct?</p> <p>5 A. Best of my knowledge, 6 yes.</p> <p>7 Q. When does Octagon Law 8 Group Inc. plan to start doing business in the 9 United States?</p> <p>10 A. As a preliminary issue, 11 the trademark issue would have to be resolved, so 12 once that is dealt with, we would start looking at 13 the operations in the U.S.</p> <p>14 Q. What steps, if any, has 15 Octagon Law Group Inc. taken toward beginning to 16 commence business in the United States? 17 A. None, other than apply 18 for our trademarks.</p> <p>19 Q. What is the business plan 20 of Octagon Law Group Inc. with respect to starting 21 business in the United States? 22 A. Other than stating it 23 would be similar to their business in Canada, the 24 same target market. There is nothing I can add to 25 it.</p>
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<p>1 Law Group do to grow its business in Canada? 2 A. Other than marketing? 3 Q. Yes, other than the 4 publications or advertisements placed in Ontario 5 Reports or Law Times? 6 A. General networking 7 events, sponsoring events. A good example would 8 be, I believe, the Ontario Bar Association has an 9 upcoming conference on diversity in the legal 10 profession. Octagon is a sponsor. That would be 11 another example.</p> <p>12 Q. What else? 13 A. Nothing else comes to 14 mind.</p> <p>15 Q. Do they make cold calls 16 to other law firms or entities involved in 17 providing legal services? 18 A. No. 19 Q. Do you receive referrals 20 for law firms or entities providing legal 21 services? 22 A. Do we receive referrals 23 from law firms, yes. 24 Q. The only marketing 25 initiatives or efforts made by Octagon Law Group</p>	<p>1 A business plan identical to 2 the one in Canada targeting law firms, entities 3 providing legal services, and so forth.</p> <p>4 To be very clear, there is 5 nothing that Octagon would do in the U.S. when it 6 came to its operations that would be different 7 from Canada.</p> <p>8 Q. Would that include 9 rendering marketing services to law firms and 10 entities that provide legal services in the United 11 States? 12 A. Yes. 13 Q. Do you plan to have 14 offices in the United States? 15 A. I cannot answer that. 16 Q. Do you plan to advertise 17 in the United States? 18 A. I cannot answer that. 19 Q. Meaning you are refusing 20 to answer? 21 A. Yes. Anything to do with 22 details of what we plan to do in the U.S., I would 23 consider those confidential. I am happy to answer 24 general questions as to what target market we will 25 go after, but not any specific operational</p>



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<p>1 questions.</p> <p>2 Q. Has anyone who is</p> <p>3 employed with Octagon Law Group Inc. and/or who</p> <p>4 performs services on behalf of Octagon Law Group</p> <p>5 Inc. had any discussions with any law firm or</p> <p>6 entity that renders legal services in the United</p> <p>7 States?</p> <p>8 A. For what purpose?</p> <p>9 Q. For the purpose of</p> <p>10 exploring business opportunities on behalf of</p> <p>11 Octagon Law Group Inc. in the United States?</p> <p>12 A. Not to the best of my</p> <p>13 knowledge.</p> <p>14 Q. Has anyone at Octagon Law</p> <p>15 Group Inc. or on its behalf started to study the</p> <p>16 U.S. market with respect to business services it</p> <p>17 might render in the United States?</p> <p>18 A. Not in detail. In</p> <p>19 general terms, yes, but not in a very detailed</p> <p>20 fashion.</p> <p>21 Q. Has anyone at Octagon Law</p> <p>22 Group Inc. or on its behalf visited the United</p> <p>23 States with respect to future services in the</p> <p>24 United States?</p> <p>25 A. Not to the best of my</p>	<p>1 A. Not to the best of my</p> <p>2 knowledge, but if a lawyer was visiting here, must</p> <p>3 have got an Octagon card.</p> <p>4 I can confirm Octagon has</p> <p>5 never given out a business card or marketed in any</p> <p>6 fashion for the purpose of gaining clients in the</p> <p>7 U.S.</p> <p>8 I just want to be careful and</p> <p>9 truthful in my statement. Somebody might have got</p> <p>10 a business card from us. I gave you a business</p> <p>11 card today.</p> <p>12 Q. That is true. How was</p> <p>13 the Octagon trademark or service mark selected?</p> <p>14 A. A long process which</p> <p>15 started looking at different phases and shapes.</p> <p>16 The primary choice was to use the word "octagon"</p> <p>17 along with the number 8, the colour red, and an</p> <p>18 octagon shape.</p> <p>19 Q. Who participated? Who</p> <p>20 was interested in that?</p> <p>21 A. I was, along with a few</p> <p>22 other people at Octagon. Apart from having two or</p> <p>23 three internal people, we had outside people</p> <p>24 assisting, too.</p> <p>25 Q. Who from the outside</p>
Page 66	Page 68
<p>1 knowledge.</p> <p>2 Q. Do persons affiliated</p> <p>3 with Octagon Law Group Inc. have business cards?</p> <p>4 A. Yes.</p> <p>5 Q. Have any business cards</p> <p>6 of Octagon Law Group Inc. been distributed into or</p> <p>7 to anyone in the United States?</p> <p>8 A. Not to the best of my</p> <p>9 knowledge.</p> <p>10 Q. Have they been</p> <p>11 distributed to anyone in Canada --</p> <p>12 A. Yes.</p> <p>13 Q. -- with businesses in the</p> <p>14 United States?</p> <p>15 A. Canada, yes. U.S., no.</p> <p>16 If your question is, "Have business cards been</p> <p>17 distributed or given out to individuals in</p> <p>18 Canada," the answer is yes. The same question</p> <p>19 relating to the U.S., no.</p> <p>20 Q. My question is: Has</p> <p>21 there been any distribution of Octagon Law Group</p> <p>22 Inc. business cards where the distribution</p> <p>23 occurred in Canada but it was made to law firms or</p> <p>24 entities that render legal services in the United</p> <p>25 States?</p>	<p>1 assisted?</p> <p>2 A. I cannot disclose that.</p> <p>3 That is confidential information.</p> <p>4 Q. Was it a marketing</p> <p>5 company or a marketing firm?</p> <p>6 A. I think they were a</p> <p>7 design firm.</p> <p>8 Q. There were three</p> <p>9 components that you just mentioned. Is that</p> <p>10 correct?</p> <p>11 A. Yes, the word "octagon,"</p> <p>12 the design element. Our primary interest was in</p> <p>13 the number 8, which we decided to forgo. We</p> <p>14 ended up going with the zen mark. The colour was</p> <p>15 red for us, and that relates to -- we have a very</p> <p>16 well-known brand in Canada, Red Seal Notary, so</p> <p>17 the colour was important to us.</p> <p>18 Q. Why is the colour red</p> <p>19 important to Octagon Law Group Inc.?</p> <p>20 A. Apart from the general</p> <p>21 attraction of the mark, it is also a mark we have</p> <p>22 used for a number of years, eight to 10 years, in</p> <p>23 Red Seal Notary.</p> <p>24 Q. When you say "the mark,"</p> <p>25 are you referring to the colour red?</p>

Page 85	Page 87
<p>1 compliance with the nature of services, yes.  2 Beyond that, no.  3 Q. One way Octagon plans to  4 use these marks is to possibly give clients the  5 right to use them under a license from Octagon Law  6 Group Inc.?  7 A. Yes.  8 Q. Does Octagon Law Group  9 Inc. plan to use the marks directly themselves or  10 only via license as just described?  11 A. No, use it themselves,  12 and that would be the primary use. The license  13 aspect would be a secondary use.  14 Q. The license aspect is use  15 by the clients. Is that correct?  16 A. Yes.  17 Q. How does Octagon Law  18 Group Inc. plan to use these marks?  19 A. A host of marketing  20 probably would be the primary focus.  21 Identification purposes, branding, general  22 marketing/branding I would say.  23 Q. What circumstances would  24 dictate which of these marks Octagon Law Group  25 intends to use?</p>	<p>1 used in all of our publications, I am 100 percent  2 sure.  3 Q. Which one is used in 100  4 percent?  5 A. I am sure Octagon Law  6 Group is used. I am confident of that. The use  7 of just the word "octagon," if it is used, it is  8 usually used within the phrase Organized by  9 Octagon or Managed by Octagon.  10 Q. But it may not be used  11 alone. Is that your testimony?  12 A. I am not aware of  13 situations where we have used it, because the  14 context is very important to us. We wouldn't use  15 it in an abstract context. Our business is  16 providing back office services to law firms,  17 services to law firms, so the context would have  18 to make that very clear.  19 Q. How does Octagon Law  20 Group Inc. define what you keep referring to as  21 back office services?  22 A. Services where your  23 clients are law firms, lawyers, entities providing  24 legal services.  25 Q. What are back office</p>
Page 86	Page 88
<p>1 A. Depending. It could be,  2 if it is of a general nature, a more general mark  3 would be used, such as Octagon Law Group. If it  4 is more specific, let's say Octagon is providing  5 tax planning for law firms, which is a very niche  6 area, Octagon Tax might be used. Again, the  7 target clients will be always lawyers and law  8 firms, and it is providing legal services.  9 Q. Are any of the Octagon  10 marks listed here used in Canada?  11 A. They are. Octagon Law  12 Group is for sure. Organized by Octagon is.  13 Octagon Law is. Octagon might be probably. I am  14 not 100 percent sure. To the best of my  15 knowledge, I am not sure whether we have used  16 other marks, Octagon Law Firms, Octagon Accounting  17 or Octagon Tax, but the other ones I have set out  18 for you, I am pretty confident they have been  19 used.  20 Q. Where is Octagon used in  21 Canada by Octagon Law Group Inc.?  22 A. Where? Probably in our  23 advertising. I am trying to think and distinguish  24 between the use of the two phrases, Octagon versus  25 Octagon Law Group. The fact that one of them is</p>	<p>1 services?  2 A. Any service other than  3 provision of legal services. Octagon does not  4 practice law. Anything related to the legal  5 profession other than practicing law.  6 Q. Does Octagon Law Group  7 Inc. license any of the Octagon marks to its  8 clients in Canada?  9 A. That is confidential  10 information. You can take that as a refusal to  11 answer based on confidentiality.  12 Q. Does Octagon Law Group  13 have any license agreements in place with any  14 clients in Canada with respect to the use of any  15 of the Octagon marks?  16 A. The same refusal, on  17 confidentiality basis.  18 Q. Again, just because we  19 haven't said it in the afternoon, I am going to  20 say again that that is not an appropriate basis  21 for a refusal, and we continue to reserve our  22 right on all of the questions that you do not  23 answer to move for sanctions, move to compel, move  24 for costs, fees, reopening the deposition, et  25 cetera.</p>

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<p>1 Just for the record in the</p> <p>2 afternoon, because I am not saying it every single</p> <p>3 time, because that would unnecessarily eat into</p> <p>4 our time here together. We are reserving.</p> <p>5 A. For the record, we</p> <p>6 reserve our right to seek damages from you for</p> <p>7 extending the period of this examination with</p> <p>8 irrelevant questions. We don't need to have that</p> <p>9 debate now. We will have that debate at a future</p> <p>10 date.</p> <p>11 Q. Yes, we will. I promise.</p> <p>12 I really hope that you did take the chance to talk</p> <p>13 to your U.S. lawyer about what the law is on that.</p> <p>14 I can promise you that it is very, very clear.</p> <p>15 A. I will take --</p> <p>16 Q. I am assuming you chose</p> <p>17 not to have your U.S. lawyer here today, not to</p> <p>18 mention that you are a member of the New York</p> <p>19 State bar, so you might have some idea of that.</p> <p>20 A. You are not examining me</p> <p>21 as a member of the New York bar. I made it very</p> <p>22 clear to you that I don't practice New York bar.</p> <p>23 As to questions to our</p> <p>24 relationship with our lawyer, I would assume that</p> <p>25 would be privileged, but you can correct me if I</p>	<p>1 Q. I believe you said there</p> <p>2 were several people involved in selection of the</p> <p>3 Octagon mark by Octagon Law Group Inc. Is that</p> <p>4 correct?</p> <p>5 A. Yes, people participated,</p> <p>6 yes.</p> <p>7 Q. You were one of those</p> <p>8 people?</p> <p>9 A. I was.</p> <p>10 Q. And who else?</p> <p>11 A. Internal people. Some</p> <p>12 companies we hired as contractors.</p> <p>13 Q. Did you or anyone on</p> <p>14 behalf of Octagon Law Group Inc. review Octagon</p> <p>15 Worldwide Holdings BV's or its related entities'</p> <p>16 use of Octagon and the way it is used in the</p> <p>17 United States?</p> <p>18 A. Let me make sure I have</p> <p>19 the question. Did we review the business? Is</p> <p>20 that what the question is? The business activity?</p> <p>21 Q. Yes.</p> <p>22 A. Yes, we did.</p> <p>23 Q. Prior to filing the</p> <p>24 trademark applications in the United States for</p> <p>25 the various Octagon marks, you were aware of</p>
Page 90	Page 92
<p>1 am wrong.</p> <p>2 Q. I think you touched on</p> <p>3 this a little bit earlier today. Prior to filing</p> <p>4 the Octagon marks or applications for the Octagon</p> <p>5 marks in the United States, did Octagon Law Group</p> <p>6 Inc. conduct an investigation as to whether the</p> <p>7 mark was available for use or registration?</p> <p>8 A. Yes. Would you like me</p> <p>9 to elaborate on what was done?</p> <p>10 Q. My next question is:</p> <p>11 What did you do as part of that investigation?</p> <p>12 When I say you, the company.</p> <p>13 A. I realize. Search of</p> <p>14 trademark, U.S. and Canadian trademark database.</p> <p>15 An extensive online search on Google. We did not</p> <p>16 do, to the best of my knowledge, any formal</p> <p>17 searches that you might do through search</p> <p>18 companies. I don't think we did.</p> <p>19 Q. Were you aware of the</p> <p>20 Respondent's use of the Octagon mark in the United</p> <p>21 States?</p> <p>22 A. I will refer to them as</p> <p>23 Octagon Entertainment. Yes, we were. I will</p> <p>24 refer to us as Octagon Law so that we don't</p> <p>25 confuse the two phrases. Yes, we were.</p>	<p>1 Octagon Worldwide Holdings BV's or its related</p> <p>2 entities' use. Is that correct?</p> <p>3 A. We were aware that</p> <p>4 Octagon -- I call them Entertainment; I can refer</p> <p>5 to them as your client -- was using the mark for</p> <p>6 the purpose of management of athletes,</p> <p>7 entertainers, and that was what the web site said.</p> <p>8 That use we knew about.</p> <p>9 Beyond that, I don't recall</p> <p>10 any other knowledge on our part of other business</p> <p>11 activities they were doing.</p> <p>12 Q. My question goes to the</p> <p>13 timing of your knowledge and awareness. Was</p> <p>14 Octagon Law Group Inc. aware of this information</p> <p>15 before it filed its trademark applications in the</p> <p>16 United States?</p> <p>17 A. Yes, as long as we are</p> <p>18 clear what we mean by "aware of this." By "this,"</p> <p>19 I am referring to the use of your client of the</p> <p>20 mark in providing those services I outlined:</p> <p>21 Management of athletes, entertainers.</p> <p>22 Q. What did you do to learn</p> <p>23 information about our client, the Respondent in</p> <p>24 this case?</p> <p>25 A. We reviewed your web</p>

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<p>1 Q. What business services 2 are rendered independent of back office services 3 as you have defined them? 4 A. I believe my definition 5 was very comprehensive. Just to repeat it, it 6 would be any business required by a law firm other 7 than providing legal services. 8 Octagon does not practice law 9 or provide legal services, but any other needs of 10 a law firm or entity providing legal services 11 would be covered by our understanding of what we 12 offer. 13 Q. Business services as 14 referenced on this particular page of Exhibit 2 is 15 part of the definition you gave of back office 16 services earlier today? 17 A. Yes, as the page says. 18 Business needs of a law firm would include back 19 office. 20 Q. Here it says law firms, 21 but am I correct in understanding, based upon your 22 testimony today, that Octagon Law Group provides 23 services to other than just law firms? 24 A. Technically, yes. 25 Entities providing legal services, yes, that is</p>	<p>1 advertising. 2 Q. Do you assist in the 3 design of web sites for your clients? 4 A. Clients, yes. 5 Q. Do you assist your 6 clients in finding other professional services, 7 entities such as accountants, IT support, other 8 types of professional services? 9 A. You mean act as a 10 referral entity to third parties? 11 Q. Yes, I think that is a 12 fair statement. 13 A. Yes. 14 Q. What do you -- again, as 15 Octagon Law Group Inc. -- perceive to be the 16 importance of marketing and branding initiatives? 17 A. For ourselves or for our 18 clients? 19 Q. For your clients. 20 A. I am not clear on the 21 question. 22 Q. What does Octagon Law 23 Group Inc. believe to be the importance of 24 marketing and branding initiatives for its 25 clients, to be performed by its clients?</p>
Page 118	Page 120
<p>1 correct. 2 Q. Continuing on, it says 3 that by focusing on the business needs of law 4 firms and, presumably, entities providing legal 5 services, as you have testified, what business 6 needs would that include? 7 A. Everything other than 8 practicing law. 9 Q. That would include 10 marketing and branding initiatives? 11 A. For law firms, yes. 12 Q. What type of marketing 13 and branding services does Octagon Law Group Inc. 14 provide to its clients? 15 A. It would be any kind 16 required, as long as they were within the 17 definition of the clients we service, i.e., law 18 firms or entities that provide legal services. 19 Q. Like what? What are 20 examples of the types -- 21 A. Anything. You can 22 assume -- 23 Q. For Amy's sake, again -- 24 A. Consulting, designing 25 campaigns, assisting in online advertising, print</p>	<p>1 A. It is an important aspect 2 of any business entity, and that is a general 3 statement, but what we feel is law firms or 4 companies providing legal services have unique 5 needs. They are highly regulated. They are 6 unlike other companies in other industries. 7 Due to the regulatory 8 environment and other aspects of the whole 9 industry, they require highly specialized services 10 when it comes to marketing, and that is where we 11 saw the niche, and hence, our business activity in 12 that area. 13 Q. Turning to the fourth 14 from the last page of Exhibit 2, it is the "about 15 us" page from the Octagon Law Group Inc. web site. 16 Is that correct? 17 A. Yes. 18 Q. It says Octagon Law Group 19 Inc. was founded by a group of experienced legal, 20 accounting, marketing, IT professionals and 21 business executives. Who are those founders? 22 A. Other than the ones that 23 are on the public record and we discussed, the 24 rest would be covered by confidentiality. Again, 25 consider that a refusal.</p>

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<p>1 Q. In the third paragraph in 2 this section, it says that Octagon's team is made 3 up of highly specialized and skilled professionals 4 in financing, marketing, accounting, information 5 technology, human resources, and business 6 management. Who comprises the team? 7 A. Same answer. You have a 8 list of the ones made public on the right. The 9 rest would be considered confidential. 10 Q. Does Octagon Law Group 11 Inc. charge some or all of its clients for its 12 services? 13 A. Confidential. You can 14 consider that a refusal. 15 Q. How are any compensation 16 arrangements structured? 17 A. The same answer and 18 irrelevant. 19 Q. Do you consider marketing 20 services to be back office services? 21 A. It could be. Depends how 22 you define back office. In my mind, back office 23 services for law firms, and I can only express an 24 opinion for law firms, includes all business 25 functions.</p>	<p>1 A. Yes. 2 Q. Do you view marketing to 3 be different from advertising when we are talking 4 about Octagon Law Group's marketing and 5 advertising consulting services? 6 A. Do I consider marketing 7 to be different from -- my understanding is that 8 there are two aspects to marketing. One is 9 advertising, and one is branding. That is my 10 understanding, but I am not an expert. 11 Q. What types of branding 12 services does Octagon Law Group Inc. provide to 13 its clients? 14 A. It would be those needed 15 by a law firm or entity providing legal services. 16 Q. What types of -- 17 A. Anything they would need, 18 as long as it is a law firm or entity providing 19 legal services. 20 Q. Please provide examples 21 of that. 22 A. I will give you two 23 examples. Beyond that, it would be confidential. 24 Picking the right name for the firm, designing an 25 ad.</p>
Page 122	Page 124
<p>1 Q. Can you express opinions 2 with respect to entities providing services to the 3 legal industry? You don't just do work for law 4 firms. You also do work for -- 5 A. Right. The qualification 6 always is that our clients are either law firms or 7 entities providing legal services. We can always 8 go on that assumption. 9 Q. It says that Octagon also 10 provides management consulting. Do you provide 11 management consulting to all of your clients or 12 just law firms? 13 A. Law firms and entities 14 providing legal services. No other companies, so 15 it is limited to law firms and entities providing 16 legal services. 17 Q. What types of issues do 18 you consult with management about? 19 A. Everything that would 20 fall under management issues. 21 Q. The third from the back 22 page is the services page of the web site. At the 23 bottom, it says, "Our services include marketing 24 solutions." Is that the same as what we have been 25 talking about?</p>	<p>1 Q. What else? 2 A. Beyond that, you can take 3 that as a refusal. It is confidential 4 information. 5 Q. Would you consult with 6 them about sponsorship opportunities? 7 A. Confidential information. 8 Refusal. 9 Q. With respect to 10 Exhibit 2, did you participate in gathering 11 together documents in response to Exhibit 2? 12 A. Gathering documents? 13 Q. Exhibit 2 is the document 14 responses. Right? The responses to the -- 15 A. Did I assist in gathering 16 documents? That was the question. I was most 17 likely asked questions whether I had documents or 18 not. Physically looking for documents, no, but we 19 can proceed on the assumption that I would have 20 been asked to search or state that I had knowledge 21 of relevant documents. 22 Q. Who was primarily 23 responsible for preparing the responses to the 24 document request and gathering together responsive 25 documents?</p>



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<p>1 MR. KALANDA: I think that is 2 getting into privilege. You are asking about the 3 preparation of documents relating to these 4 proceedings. 5 MS. CARMICHAEL: You are 6 instructing him not to answer? 7 MR. KALANDA: That is correct. 8 MS. CARMICHAEL: 9 Q. To be clear, were none of 10 the client contracts and other information 11 produced under a claim of privilege in response to 12 the document request? Is that correct? 13 A. Which paragraph are you 14 referring to? 15 Q. Generally. 16 A. If that is what the 17 document states, we can proceed. That is the 18 case. 19 Q. Have there been any other 20 disputes between Octagon Law Group Inc. and any 21 third party with respect to Octagon Law Group 22 Inc.'s use of the Octagon marks as we have defined 23 them today? 24 A. Not in the U.S. Outside 25 the U.S., I couldn't comment on that. It would be</p>	<p>1 MS. CARMICHAEL: 2 Q. That is the question. 3 A. You have my counsel's 4 answer, and my statement was to make sure the 5 record is clear on the issue. 6 Q. I think we are going to 7 take a break for a few minutes. We might be very 8 close to finishing. 9 --- Recess taken at 2:28 p.m. 10 --- Upon resuming at 2:43 p.m. 11 MS. CARMICHAEL: I think we 12 are finished, unless you have any 13 cross-examination. About the deposition, we do 14 appreciate your time. I think it was really 15 helpful for us to learn more about the business 16 and certainly nice to meet you. 17 THE WITNESS: Likewise. 18 MS. CARMICHAEL: I wanted to 19 emphasize both to Rachel and Gabby and to you 20 also, because I don't know if this case will 21 settle or not, but -- 22 THE WITNESS: Are we on the 23 record? 24 THE COURT REPORTER: We are. 25 MS. CARMICHAEL: You can go</p>
Page 126	Page 128
<p>1 most likely covered by privilege. I can confirm 2 there has been no dispute with any entity over our 3 marks in the U.S., to the best of my knowledge. 4 If my counsel is aware of other ones, there might 5 have been something minor, but I don't know. Let 6 me consult with my counsel to make sure I have 7 given you an accurate answer. I can confirm there 8 was no opposition from anybody in the U.S. 9 Q. Does Octagon Law Group 10 Inc. have any clients that are entities in which 11 you have no business, economic or equitable 12 interest? You can read it back, because I know I 13 said it correctly. 14 MR. KALANDA: I think that 15 goes into -- I have the question. I think that 16 goes into, again, confidential business 17 information. 18 THE WITNESS: For the record, 19 I would like to be sure I answer the questions 20 which relate to my legal positions within the 21 company, whether as an officer, director or 22 shareholder. 23 MS. CARMICHAEL: Go ahead and 24 read the question back, please, Amy. 25 --- (Readback provided)</p>	<p>1 off the record. 2 --- Whereupon the proceedings adjourned 3 at 2:44 p.m. 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

# Exhibit D

## **Jodi Sarowitz**

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**From:** Tami Carmichael  
**Sent:** Monday, November 18, 2013 2:04 PM  
**To:** Maria v. Hardison (maria@tassan.com)  
**Cc:** Jodi Sarowitz  
**Subject:** OCTAGON

Dear Maria:

As you may be aware, at his recent deposition, Mr. Heydary improperly refused to answer series after series of material and relevant lines of questions, in violation of both the TTAB rules and the Federal Rules of Civil Procedure. Mr. Heydary's refusals to answer and objections, based upon a purported claims of irrelevance and confidentiality, are wholly improper, inadequate and unacceptable. Even after we provided Mr. Heydary the opportunity to telephone and consult with you during the deposition, he continued to refuse to answer questions, rendering entire subject matters and further questions futile. As a result, we reserved our right to re-open the deposition with respect to the subject matter of such information requests/deposition questions.

As we advised Mr. Heydary and his Canadian counsel at the deposition, the deposition will need to be continued, and Mr. Heydary, who instituted this proceeding, must answer the questions and lines of questioning posed in accordance with the rules of the TTAB and the Federal Rules.

Please advise, by no later than close of business Wednesday, November 20, 2013, whether Mr. Heydary will agree to appear voluntarily for a continued deposition, either in New York or Toronto, at Petitioner's cost. If he does not agree to appear, we will move to compel his appearance and for sanctions for failure to comply with discovery obligations. Given the egregious nature of your client's refusal to answer questions, we have no doubt that the Board will grant such relief.

Tamara Carmichael  
Loeb & Loeb  
345 Park Avenue  
New York, NY 10154  
Direct: (212) 407-4225  
Fax: (212) 202-6036



# Exhibit E

**Jodi Sarowitz**

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**From:** Maria v. Hardison <maria@tassan.com>  
**Sent:** Wednesday, November 20, 2013 5:19 PM  
**To:** Tami Carmichael  
**Cc:** Jodi Sarowitz  
**Subject:** Re: OCTAGON

Ms. Carmichael,

We have been advised that Mr. Heydary is out of the country and his associate has tried to get instructions on this matter, but has not heard back from him. So, we cannot confirm that he will or will not sit for an additional deposition.

**REDACTED**

Maria V. Hardison  
Tassan & Hardison  
4143 27th Street N.  
Arlington, Virginia 22207-5211  
Tel: (703) 522-4583  
Fax: (703) 991-9110  
E-mail: [maria@tassan.com](mailto:maria@tassan.com)

**From:** [Tami Carmichael](#)  
**Sent:** Monday, November 18, 2013 2:04 PM  
**To:** [maria@tassan.com](mailto:maria@tassan.com)

**Cc:** Jodi Sarowitz  
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